

103  
CHARGING A FEE TO ENTER THE UNITED STATES  
AT A LAND BORDER PORT

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Charging a Fee to Enter the United...

HEARING  
BEFORE THE  
INFORMATION, JUSTICE, TRANSPORTATION,  
AND AGRICULTURE SUBCOMMITTEE  
OF THE  
COMMITTEE ON  
GOVERNMENT OPERATIONS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED THIRD CONGRESS

FIRST SESSION

AUGUST 3, 1993

Printed for the use of the Committee on Government Operations



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# CHARGING A FEE TO ENTER THE UNITED STATES AT A LAND BORDER PORT

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TUESDAY, AUGUST 3, 1993

HOUSE OF REPRESENTATIVES,  
INFORMATION, JUSTICE, TRANSPORTATION,  
AND AGRICULTURE SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 9 a.m., in room 2247, Rayburn House Office Building, Hon. Gary A. Condit (chairman of the subcommittee) presiding.

Present: Representatives Gary A. Condit, Karen L. Thurman, Craig Thomas, Ileana Ros-Lehtinen, and Stephen Horn.

Also present: Representative Rob Portman.

Staff present: Shannon Lahey and Audrey A. Bashkin, professional staff members; Aurora Ogg, clerk; and Kristine Simmons, minority professional staff, Committee on Government Operations.

## OPENING STATEMENT OF CHAIRMAN CONDIT

Mr. CONDIT. Good morning. Our first witness will be here in a few minutes. We will go ahead and make our opening statements.

The Federal Government has some basic and fundamental responsibilities in which States and local jurisdictions have no role. One of these responsibilities is securing our Nation's borders. There are currently an estimated 3.3 million undocumented residents in the United States of which 1.3 million reside in California. An estimated 3,000 individuals illegally cross the border between Tijuana and San Diego every day. Their presence in the State is a direct result of the failure of the Immigration and Naturalization Service to secure our borders.

This is the fourth in a series of hearings that this subcommittee has held on immigration issues. These hearings have demonstrated that the Border Patrol has not been adequately funded since passage of the Immigration Reform and Control Act of 1986. It has lacked the resources necessary to do its job. Recently, the House passed an amendment that would increase funding of the INS by \$60 million. President Clinton supports this increase. This 1-year increase in funding is a short-term fix to a sustained and growing problem at our borders. In previous subcommittee hearings, the idea of raising revenue to reimburse State and local governments for immigration costs has been raised.

The idea of imposing a border toll as a means to generate revenue will be the focus of today's hearing. We will focus on the southwestern border today, and will continue to investigate the unique

problems associated with our northern borders. In a time of grave and unprecedented Federal debt, we must be open to new ways for the government to generate revenue and carry out its responsibilities effectively.

In 1991, approximately 420 million individuals—or 88 percent of all applicants—applied for admission to the United States at land border points of entry. NAFTA is expected to increase the volume of cross-border traffic, as well as the flow of illegal immigration. Charging a toll at the border may generate net revenue. This money could be used to strengthen INS resources at borders or to reimburse State and local governments for the costs of illegal immigration. Last week, the inspector general of the Department of Justice issued an audit report criticizing INS for failing to use its authority to implement a border crossing fee as a way of raising revenue.

Currently, individuals arriving in the United States through air and sea ports of entry must pay a \$5 immigration user fee for inspection services. The inspector general report finds that revenue collected from this fee has enabled the INS to more than triple the number of available sea and airport inspectors and that INS has been able to, regarding the inspector general report, improve service at these ports. The INS, in written comments regarding the inspector general report, disagrees with the findings and recommendations. There would be many difficulties involved with instituting a border toll.

This is why I believe we must face these difficulties head on and determine whether or not such fees are feasible.

We must fund solutions to ensure adequate and long-term Federal funding for INS to deter illegal immigration and to reimburse communities for immigration-related costs.

Our witnesses today will help us get started in this process.

At this time I would like to turn to the ranking minority member, Mr. Thomas, who has been helpful in all these hearings, for any opening statements he would like to make at this time.

Mr. THOMAS. Thank you, Mr. Chairman. I have a short statement. Certainly, there is an increasing concern for the integrity of U.S. borders that spread beyond the States that border Canada and Mexico. Immigration policy has emerged as an important national debate, more, I guess, than most of us would have thought sometime back.

So I commend the chairman for this series of hearings on the impact of illegal immigration and the opportunity to secure U.S. borders. Looming over this discussion, as with most other policy discussions these days, is the question of money or more specifically the lack of it. Many proposals to bolster controls on immigration would probably require more resources. Border crossing fees are one option.

I look forward to hearing more about these fees and how they might affect the United States and its relations with Mexico and also Canada.

There is no question that the cost of illegal immigration is staggering and any increase in revenues would be useful in order to curtail them. The States and local governments are burdened by

unfunded immigration mandates that have strapped the resources of the Border Patrol and some funding would be useful.

We have had several hearings. I am no expert on this whole problem, of course. We are a long way from the border in Wyoming, but I wonder sometimes if the more basic question is not our commitment to what we do about illegal immigration.

As I listen to the conversations that go on, I am not sure we have really decided where we are. It may take more dollars to do something, but I am not certain that we have really decided to do anything. The argument seems to move off in some other direction and often becomes racist or whatever. I am not sure we have really decided to commit ourselves to do as much as we might about illegal immigration, however, the question today is basically the fees. I look forward to hearing the views of our witnesses. Thank you, Mr. Chairman.

Mr. CONDIT. Thank you, Mr. Thomas. We have Mrs. Thurman from Florida who has been a very active member of the committee.

Mrs. THURMAN. Thank you. I appreciate being at this hearing. Being from Florida, this has been a very major concern because of our large land mass which can lead to mass immigration. Coming from the State senate I know it has been a burden on our State budget when we deal with medical costs, housing, employment, and schooling of immigrants.

It is good to have a chance to listen to some suggestions, but it is just as important to keep in mind that this is a Federal issue and it is vital to help the States that are having the problems.

Mr. CONDIT. Thank you. Also, my colleague from California, Mr. Horn. Do you have a statement you would like to make?

Mr. HORN. No, except I am delighted to see the senior Senator from California, the very able Senator who has given a lot of thought to this matter.

Mr. CONDIT. I am very pleased to have the senior Senator from California with us today. Senator Dianne Feinstein has been a leader on immigration issues and a strong proponent of crossing fees. Senator Feinstein has made a great effort to be with us today. I appreciate it so much. It shows her commitment to finding solutions for the complex and very serious problems facing the State of California as well as this Nation. We are extremely honored to have you with us today. The floor is yours.

#### **STATEMENT OF HON. DIANNE FEINSTEIN, A SENATOR IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mrs. FEINSTEIN. Thank you very much. Mr. Chairman, Mr. Thomas, Mrs. Thurman, and Mr. Horn, it is a great pleasure to appear before the committee. Thank you for holding these hearings. This is a subject that often generates much more heat than light. I think it is time that we take a good look at our immigration picture in very practical and yet human and humanitarian terms.

This is a Nation that is founded with immigrants. Immigrants have made major contributions to the country. As I have often said, there, but by the grace of God, go I. Had I been born in the countries of my grandparents and my mother I certainly would not be where I am today. I appreciate it. I know it. I believe many people believe that as well.

Having said all of that, I really believe that now is the time to enforce our borders. To those who say it is impossible, I would say nonsense. It is clear to me that through both phone calls and letters to our office that tensions in California are rising because of the very rough economic times.

Today nearly 1.4 million Californians are out of work. Jobs are hard to find. Every classroom is overcrowded, crime abounds, and affordable housing is virtually nonexistent. So with the current conditions I fear that if our government does not take responsible steps to restrict illegal immigration into the United States, there will be a serious backlash against all immigrants and nowhere is the magnitude of this problem more obvious than along the south-west border of California.

In early July, I visited 14 miles of the 60-mile border that stretches from the Pacific to the Imperial County line.

Here is what I saw: Hundreds of people lined up across the flood control basin that separates the two countries, playing a cat and mouse game with the outnumbered border agents and attempting to illegally enter the United States.

Helicopters, 25 years old, so rickety that Border Patrol agents do not feel safe taking anyone up in the air.

The inability to provide hepatitis shots to the Border Patrol agents who work in the raw sewage of the Tijuana River because of the lack of funds.

An underground tunnel 65 feet deep, a quarter of a mile long that went from a building on one side of the border to a building on our side of the border and would have carried drugs and illegal immigrants under the border had it not been discovered.

Understaffed and overwhelmed agents struggle to fulfill their responsibilities.

Of the 1.2 million people arrested for illegally entering the United States in 1992, 565,000, nearly half of them, were arrested and returned to the border that separates San Diego and Mexico. It is understandable. Mexico has no welfare system, no SSI, no AFDC, no Social Security, no Medicaid, no Medicare, nothing for poor people, and a minimum wage that is in the vicinity of 60 cents an hour. So you have the lure of hope and opportunity, the bright lights versus none and darkness and all of this is side by side.

The Border Patrol estimates that at least another half million succeed in illegally crossing the border into San Diego each year. Yet only 1,003 of the 4,770 Border Patrol agents authorized in the country are deployed in the San Diego sector. In fact with just 21 percent of the agents, this region made 50 percent of the arrests in the entire Nation.

This level of illegal immigration has a tremendous impact on southern California, specifically the southern counties of Los Angeles, Orange, and San Diego.

A report by the Los Angeles County Board of Supervisors shows that 700,000 of the estimated 1.3 million illegal immigrants in the State live in Los Angeles.

My research and trip to the border have made it clear to me that the time has come to enforce our borders. So recently we outlined seven goals.

These goals include the expansion of the Border Patrol, increasing their training, their equipment, maximizing their effectiveness. Stiffening the penalties against alien smugglers.

Consolidating the deportation hearings and sentencing in Federal trials of illegal immigrants.

Eliminating the option that allows an illegal immigrant convicted of a felony in a State to serve their sentence here in America rather than return to their country of origin.

Reducing the backlog of the 260,000 asylum cases pending, streamlining that process.

Reserving political asylum for those who really flee their country out of fear of political persecution, bodily injury, or death, and revoking the present Executive order that gives enhanced consideration to claims of persecution based on a country's strict birth control policy.

Then closing the loopholes in existing law that permit financially sound people to travel to the United States to receive medical care at taxpayers' expense and then return home.

As you know, on July 27, the President of the United States announced a timely package which addressed three of these seven points. The Appropriations Committee of the Senate, of which I am a member, accepted the House package of funding 600 additional Border Patrol agents with a \$131 million package. That is now effectively done.

It would approve the expansion of the INS processing center at El Centro, provide funds for at least 1,700 additional beds and five new detention and service processing centers along the southwest border.

But, it is just a drop in the bucket. It doesn't do the job. Quite properly the first question asked in Washington is: Where is the money going to come from?

Although it was not one of my seven points, I went the extra step when unveiling these goals to provide a possible funding source. I have suggested to fully fund border infrastructure, training, and personnel along our borders, a border crossing fee at all U.S. land borders and seaports. One dollar per person, for example, could generate over \$400 million a year.

My view is that this revenue should first go to beef up the border gates on the San Diego border. Half of them are unmanned at any time. There are 24 gates. One-half are unmanned. What this does is cause a huge backlog of commercial traffic going back and forth across the border. Here it would be like you pay a bridge toll to go across the Golden Gate or Oakland Bay Bridge or the Verrazano-Narrows Bridge going into New York, you pay for the infrastructure to move you rapidly.

It would reduce air pollution. It would facilitate commercial traffic. It would cut back on waiting.

Additionally, the border crossing fee could be used by Customs, INS, in particular, the Border Patrol. It could be used for special efforts aimed at drug interdiction and antiterrorism efforts. This is hardly a radical or a new idea. It has been suggested before and in many areas it is already in place. This is the irony.

International travelers, both residents and visitors, who arrive at a U.S. airport already pay \$10 built into the price of their ticket

to support INS and Customs Services. Those arriving by air from Canada and Mexico pay \$5 earmarked to the INS. Those who arrive by land or sea pay no fee at all.

Crossing fees are already in place on our border. There is a pilot commuter pass program from Canada to Washington, tolls ranging from \$1 to \$2 collected at 15 bridges that carry travelers from Mexico to Texas and tolls on three bridges ranging from 75 cents to \$1.75 charged to travel from Canada to Michigan today.

Now, Mr. Chairman, you mentioned that the inspector general this month came out with a report on the INS fee programs and you spoke about some of the items. I would like to stress some of the other items in this report. The inspector general found that fees were charged by INS for less than 9 percent of the 476 million inspections performed by the agency in 1991. In that same year more than 420 million individuals who were not charged a fee, were inspected at the Mexican and Canadian borders, 420 million.

Other INS fee collections, as you mentioned, such as the \$5 user fee which the President just raised to \$6 to fund part of his package for air and seaport inspections greatly improved INS capacities at those locations. That is the point, we do a better job when we have the revenues to provide enforcement.

More than 250,000 applications for border crossing cards are processed annually by the INS for residents of Canada and Mexico. The actual cost for processing is about \$50 per person. So if you charge what it costs to process the cards, we would gain \$12,500,000 a year. Instead, our taxpayers pay this. We subsidize it. That is wrong, I believe.

On the basis of the finding, the inspector general made several specific recommendations. These included suggestions that INS submit remedial legislation proposals to OMB as required by the OMB circular to remove exemptions and restrictions on the imposition of fees, and second to establish a fee to recover the cost for each service and benefit provided to an identifiable recipient, including a land border fee for inspection services, both vehicle and pedestrian, in accordance with the user charge statute, OMB Circular A-25, and applicable legislation as it relates to the INS.

The INS has rejected both of these recommendations. I think that is a mistake. I am really hard pressed to understand why the INS has been lax in implementing a 1952 Federal law called the user charge statute which authorizes Federal agencies to collect a fee for service and encourages agencies to be financially self-sustaining wherever possible.

Mr. Chairman, in view of the fact that we have legislation on the books going back to 1952 which says, INS, do this; in view of the fact that we have a huge Federal deficit that hopefully, we are now passing, a reconciliation bill that takes some very strong measures to come to grips with it, it seems to me that a modest border crossing fee of \$1 a person which could raise \$420 million is an idea whose time has come. I thank you very much.

[The prepared statement of Mrs. Feinstein follows:]

**United States Senate**

WASHINGTON DC 20510-0504

**Border Crossing Fee****Senator Dianne Feinstein****Government Operations Committee  
Subcommittee on Information, Justice  
Transportation and Agriculture****August 3, 1993**

Thank you for this opportunity to briefly describe my views regarding illegal immigration and its impact on California.

Quite simply, I believe that we can enforce our borders -- and I believe that the time to act is now. Through both calls and letters to my office, it is clear to me that tension in California is rising during these rough economic times. Today, nearly 1.4 million Californians are out of work. Jobs are hard to find. Every classroom is overcrowded. Crime abounds. And affordable housing is virtually non-existent.

With the current conditions in California, I fear that if the federal government does not take responsible steps to restrict illegal immigration into the United States, there will be a serious backlash against all immigrants.

Nowhere is the magnitude of the problem more obvious than along the Southwest border in California. In early July, I toured 14 miles of the 60 mile border that stretches from the Pacific Ocean to the Imperial County line.

This is what I saw:

Hundreds of people lined up across the flood control basin that separates the two countries, playing a cat-and-mouse game with the outnumbered border agents, and attempting to illegally enter the United States.

Helicopters, 25 years old, that are so rickety that Border Patrol agents do not feel safe taking anyone up in the air.

An underground tunnel 65 feet deep, a quarter of a mile long, that went from a building on the other side of the border to another on this side -- and would have carried drugs and illegal immigrants under the border had it not been uncovered.

Understaffed and overwhelmed agents struggle to fulfill their responsibilities.

Of the 1.2 million people arrested for illegally entering the United States in fiscal year 1992, 565,000 were arrested, and returned, along the border that separates San Diego and Mexico. The Border Patrol estimates that at least another half a million people succeed at illegally crossing the border into San Diego each year.

Yet, only 1,003 of the 4,770 Border Patrol agents authorized in the country are deployed in the San Diego Sector. In fact, with just 21 percent of the agents in the country, this region made 50 percent of the arrests.

This level of illegal immigration has a tremendous impact on Southern California, specifically the southern counties of Los Angeles, Orange and San Diego. A report by the Los Angeles County Board of Supervisors shows that 700,000 of the estimated 1.3 million illegal immigrants in the state live in Los Angeles.

My research and trip to the border have made it absolutely clear to me that the time has come to enforce the immigration laws already on the books and to enforce our borders.

In order to achieve this, I outlined seven goals on June 30:

- (1) Expand the number of Border Patrol agents, increase their training and equipment, and maximize their effectiveness;
- (2) Stiffen penalties against alien smugglers;
- (3) Consolidate the deportation process during federal trials of illegal immigrants accused of aggravated felonies;
- (4) Eliminate the option that allows illegal immigrants convicted of felonies to serve their sentence at state prisons rather than in prisons in their country of origin;
- (5) Reduce the backlog of 260,000 asylum cases pending review and streamline the asylum process;
- (6) Reserve political asylum for those who flee their country for fear of political persecution that could result in an individual's death or bodily injury and revoke the present Executive Order that gives "enhanced consideration" to claims of persecution based upon a country's strict birth control policies. Such political considerations should be removed from the asylum process; and
- (7) Close the loopholes in existing laws that permit financially sound people to travel to the United States, receive medical care at taxpayer expense, and then return home.

I am pleased to see a bipartisan consensus emerging to address these goals.

On July 27, the President announced a timely legislative package which addresses three of the seven points I proposed in late June. Specifically, the President's legislation — introduced in the Senate last Friday — will reduce the INS' huge asylum backlog and increase the penalties for alien smugglers. His \$172.5 million package also would add 600 border patrol agents. A portion of the funding necessary would come from raising the entry fee by one dollar for airline passengers.

A week earlier, the Senate Appropriations Committee, of which I am a member, voted unanimously to augment the Border Patrol by 600 agents and would restore the 93 agents cut from the President's original budget. The Committee also approved the expansion of the INS's processing center in El Centro, and provided funds for at least 1,750 additional beds in five new detention and service processing centers along the Southwest border. Significantly for California, the \$131 million program will dedicate new border control officers to the Southwest border.

This, however, is only a drop in the bucket.

Quite properly, the first question asked in Washington when a new program is proposed is: "Where will the money come from?"

Although it was not one of my seven points, I went the extra step when unveiling these goals to provide a possible funding source.

I have suggested — to fully fund border enforcement — a border crossing fee at all United States land borders and seaports. A one dollar fee, for example, could generate \$400 million a year. My view is that this revenue must go directly to the those agencies that deal with border enforcement, customs, immigration and naturalization, drug interdiction, and anti-terrorism efforts.

This would allow us to add more Border Patrol agents, buy new equipment, and properly train all personnel who work along the border. It would also provide additional funds for drug interdiction efforts and help prevent terrorists from entering our country.

A border crossing fee is hardly a radical idea. In fact, several forms of fees and tolls are already in place:

- 1) International travelers, both residents and visitors, who arrive at a United States airport already pay \$10 — built into the price of their tickets — to support INS and Customs services. Those arriving by air from Canada and Mexico pay \$5 — earmarked to the INS. Yet those who arrive by land or sea pay no fee at all.

- 2) Of the 24 inspection lanes at the San Ysidro Port of Entry along the Southwest border in California, anywhere from eight to 12 lanes are closed at any given time because of insufficient staff. This is a simple waste of time for commuters or those crossing the border to do business. I want to eliminate this backlog by providing the resources to staff all the gates during peak travel times. This will be a tremendous benefit to those who cross the border to patronize San Diego businesses. I am also open to incorporating reduced-rate commuter coupon books into the border crossing fee plan.
- 3) Crossing fees are already in place on our border. Currently, all of the following are in a place:
  - \* A pilot commuter pass program from Canada to the state of Washington;
  - \* Tolls ranging from \$1 to \$2 collected at 15 bridges that carry travelers from Mexico to Texas, and
  - \* Tolls on three bridges ranging from 75 cents to \$1.75 charged to travel from Canada to Michigan.

The time has come to enforce the law -- that requires money and a willingness to do what has to be done. A border crossing fee -- first discussed in the mid 1980's -- is a reasonable "fee for use." I believe it's an idea whose time has come.

Since I announced my border fee proposal on June 30, my office has received nearly 1800 calls on this issue. Ninety percent of the callers -- 1573 to be exact -- support the plan. And, I'm pleased to say, the largest newspaper in the state -- the Los Angeles Times -- has endorsed the plan. Ninety five percent of the letters to my office have been in favor.

Two letters to the editor that appeared on July 29 in the San Diego Union-Tribune also expressed support:

Kay Guarino of La Jolla writes: "There's no money for more Border Patrol agents unless Sen. Dianne Feinstein's border toll is enacted; user fees make good sense in today's economy. I suggest we support her proposal in its entirety and urge our congressional delegation to help get it passed into law."

Marvin J. Hamburger of Ramona writes: "If we were to merely cut the waiting time in half of those who cross the border by auto, the \$1 entry fee would be well worth it."

A border crossing fee is both a reasonable toll and a viable means of fully enforcing our border.

One of the most positive aspects of the debate over illegal immigration in the last month is the fact that a consensus is emerging. For too long, this issue simply polarized elected officials.

I represent a state that is deeply affected by the level of illegal immigration. It is my responsibility to see that this issue is addressed in a reasonable, rational and fair manner.

The concept of a border crossing fee at all land borders and seaports deserves very serious consideration. Unless the federal government is willing to take this step, I fear the goals I have set forward to restrict illegal immigration will never be realized.

I look forward to continuing to work with my House colleagues to make meaningful immigration reform a reality in the 103rd Congress. Thank you, Mr. Chairman.

Mr. CONDIT. Senator Feinstein, I appreciate your taking the time to appear before us this morning. I applaud you for taking a hard look at a very difficult issue. I understand you have a very tight schedule today and will not be able to be around for the entire hearing, but if you have questions you would like us to submit to the panels that are testifying today we will be delighted to do that on your behalf.

Mrs. FEINSTEIN. Thank you very much.

Mr. CONDIT. Does any member have any questions?

Mr. HORN. Thank you. I am impressed by your testimony and the thoroughness with which you have researched this problem. I think it is very helpful for all Members of Congress. Do you have any thoughts as to what the adoption of NAFTA might do to the border fee idea?

Mrs. FEINSTEIN. No, I have not. I have spoken directly to Ambassador Kantor on this point as late as Saturday night. One thing that is very apparent for anyone who goes to the border is that Mexico has not demonstrated any effort to control the border. As part of NAFTA, that ought to be made a requirement. I have indicated that quite directly to Mr. Kantor. He has indicated to me that he agrees. We would have to wait and see what happens. But I think, Mr. Horn, you have raised a very good point.

Mr. HORN. Let me raise another point. That is that people crossing on a green card regularly to work in the United States. Let's take El Paso and get away from San Diego. There is substantial traffic that has gone on for years. It is recognized by us as legitimate operations. I just wondered to what degree would this unduly impact that type of worker that everybody accepts, who is legally handled and does go home.

Mrs. FEINSTEIN. Let me give you an example, to come to San Francisco from Marin County, everyone who crosses the Golden Gate Bridge which, other than the ferry is the only way to get there, pays a \$3 bridge toll. That goes into the maintenance. Regular commuters have discounted commuter books. There are all kinds of ways of providing for a regular commuter.

I think the cost of a border crossing discount coupon book or a computer decal or however you might want to do it really has to be weighed against the costs of lost wages, added air pollution as people sit at a border, legitimate people who have business on both sides, and wait for processing.

I think it could provide for an expeditious crossing that really would save money in the long run.

Mr. CONDIT. Mr. Horn, if you would yield, I promised Senator Feinstein that she would be able to leave as soon as she testified. I apologize. We will not delay you. If you have questions you would like to submit, Mr. Horn, I am sure she would be happy to respond to those.

Mrs. FEINSTEIN. Thank you, Mr. Chairman. I really appreciated that question because in a way that is the heart of the matter, I find, the opposition to the border crossing fee seems to come from people who feel that the surrounding areas are economically disadvantaged because of it. Frankly, that is just not true. There are all kinds of things that can be done to speed that up and actually

save money. So my feeling is, done right, a border crossing fee will increase commerce and trade. It will not detract from it.

Mr. CONDIT. We are going to hear from some of those people a little later. The honorable mayor from El Paso is here today.

Mr. HORN. Let me ask a 15-second question. You hit on the real cause of people coming here, economic advantage and jobs. Have you given any thought to the idea to a foolproof Social Security card that is counterfeit proof? Right now they are counterfeit everywhere, as you know, \$40 each on the corners of Santa Ana and Los Angeles. What do you think of that added to your border fees as a way to stop this?

Mrs. FEINSTEIN. Let me tell you what I have tried to do in my proposals. I have tried to select those proposals that are not lightening rods to dissension and see if we cannot get that part of the job done and then reevaluate and see where we are.

It is my belief that if we do what we need to do in terms of enforcing our border and revising our procedures and carrying out the laws that we have on the books in a timely and efficient way, we can solve the problem, I am hopeful, without further steps.

I believe that this is the moderate approach and I believe it is the approach that is acceptable to the most people and it avoids a lot of needless dissension. So I have left those issues in abeyance saying let's take these first steps first and evaluate the progress that we have made.

Mr. HORN. Thank you for your answer.

Mr. CONDIT. Thank you, Senator. We appreciate your being here very, very much.

We will take the second panel. If the panel will stand, we are going to swear in the witnesses if no one objects.

[Witnesses sworn.]

Mr. CONDIT. We have Mr. Puleo, Acting Executive Associate Commissioner for Operations, Immigration and Naturalization Service; Mr. Carnes, who is the Director of the user fee task force of the Office of Inspection and Control, U.S. Custom Service; Donna Hrinak, Deputy Assistant Secretary for Caribbean and Mexican Affairs, Bureau of Inter-American Affairs; Department of State; and a return victim, Mr. Hankinson, who is the inspector general of the U.S. Department of Justice. We are delighted to have you.

Why don't we just start down this way and we will start with Ms. Hrinak.

**STATEMENT OF DONNA HRINAK, DEPUTY ASSISTANT SECRETARY FOR THE CARIBBEAN AND MEXICAN AFFAIRS, BUREAU OF INTER-AMERICAN AFFAIRS, DEPARTMENT OF STATE**

Ms. HRINAK. Thank you, Mr. Chairman and members of the committee.

I am happy to be here today to add the Department of State's views to this discussion of a proposed land border crossing fee. This committee will hear very clearly and comprehensively from both INS and Customs about some of the complexities involved in the imposition and collection of such a fee.

While we in the Department of State defer to Customs and INS on these issues on which they are much more expert, I would like

to note briefly some foreign policy considerations which may complicate efforts to introduce border crossing fees and which therefore should also be taken into account.

As I am sure my colleagues from the other agencies will note, any fee which might be implemented must, for constitutional reasons, prohibiting discrimination among U.S. ports, include both the southern and northern land border. This requirement is important to note because of the United States-Canada Free Trade Agreement, provisions of which would, it appears, force us to collect fees from not only the Canadian and third-country nationals crossing our northern border, but from U.S. citizen border crossers as well.

The relevant sections of the United States-Canada Free Trade Agreement are in the services annex, annex 1404, which states, and I will just paraphrase, "that the adoption or application of fees on departure or arrival of tourists impedes the free flow of tourist services that is recognized by the United States and Canada in this provision and that when such fees are imposed, each party shall agree to accord to persons of the other party treatment no less favorable than those accorded to its own nationals."

It appears, then, that we would indeed be bound by treaty to charge U.S. citizens to enter their own country. Some may suggest renegotiating the treaty as a way to facilitate imposition of a border crossing fee.

I would just note a concern that when you are in international negotiations you are seldom afforded the luxury of discussing only those issues of concern to you. It is quite likely that if we proposed renegotiation of the treaty to Canada, the Canadians would also bring some issues to the table which we might prefer not to discuss.

Another integral concept in our relations with both our neighbors, Mr. Chairman, is reciprocity. At the very least, if we impose such a fee we should be aware that reciprocal action by the other two countries is quite likely and obviously such an action would have a serious impact on the citizen travelers of all three States.

Land border crossing fees would have effects in terms of time and money on the legal movement of hundreds of millions of people who cross our borders with Canada and Mexico for business, tourism, shopping, family visits, and for numerous other purposes.

We did not approach the Governments of Mexico and Canada specifically on the question of border crossing fees in preparation for this hearing, but based on past experience it is reasonable to anticipate that both of them would object strongly to any such proposal.

They would no doubt view such a move on our part as an unjustified restriction on the free flow of legal commerce and legal border crossings and a retreat from positions we have taken consistently in negotiations with them, reflected, among other documents, in the text of the Canadian Free Trade Agreement which I have cited which describes these as impediments.

Mr. Chairman, I make these points to note the serious implications which implementation of a land border crossing fee would have on our relations with our neighbors with whom we must have cooperation on a wide range of issues. Any such proposal would require extensive negotiations with both Canada and Mexico.

Our interest in productive, friendly relations with our two closest neighbors should not be overlooked as Congress examines what I know is a very difficult and very serious question. Thank you.  
[The prepared statement of Ms. Hrinak follows:]

Testimony

of

Donna Hrinak  
Deputy Assistant Secretary  
Bureau of Inter-American Affairs  
Department of State

Before the

Subcommittee on Information, Justice, Transportation and Agriculture  
Committee on Government Operations

August 3, 1993

Donna Hrinak  
Deputy Assistant Secretary  
Bureau of Inter-American Affairs  
Department of State

Before the

Subcommittee on Information, Justice, Transportation and Agriculture  
Committee on Government Operations

August 3, 1993

Chairman Condit, Members of the Committee: I am pleased to have the opportunity to be with you today representing the Department of State, to discuss suggestions that the United States might charge a fee to travelers crossing our land borders.

The Department of State yields to the Departments of Justice and the Treasury on questions of how to collect any such fee that might be imposed. I would like to mention briefly some foreign policy considerations that must be taken into account in our discussion.

The United States has international commitments that may complicate an effort to introduce border crossing fees. Land border crossing fees would have effects in terms of money and time on the movement of hundreds of millions of persons across our borders with Canada and Mexico for business, tourism, shopping, family visits, and a host of other purposes.

It appears at the outset that if we were to collect fees from Canadians for crossing our land border, we would have to collect them from United States citizens as well. The U.S.-Canada Free Trade Agreement states in annex 1404 that:

3. The Parties recognize that the adoption or application of fees or other charges on the departure or arrival of tourists from their territories impedes the free flow of tourism services. When such fees or other charges are imposed, they shall be applied in a manner consistent with Article 1402 and limited in amount to the approximate cost of the service rendered.

Article 1402, under reference, states:

1. Subject to paragraph 3, each Party shall accord to persons of the other Party treatment no less favourable than that accorded in like circumstances to its persons with respect to the measures covered by this Chapter.

Currently, the U.S.-Canada Free Trade Agreement provides that any fees for processing applications for temporary entry of business persons shall be limited in amount to the approximate cost of the services rendered. This provision reflects the intention of all parties that restrictions on border crossing be kept to a minimum. Another integral concept in these agreements is reciprocity. At the very least, if we imposed such a fee, we should anticipate reciprocal action by the other two countries.

Although we did not approach the governments of Mexico and Canada specifically on the question of border crossing fees in preparation for this hearing, we are confident based on past experience that both of them would object strongly to any such proposal. Canada and Mexico would view such a move on our part as an unjustified restriction of the free flow of commerce and people and a retreat from positions we have taken consistently in negotiations with the two countries. Mexico, furthermore, probably would see the move as discriminatory since its impact on the average Mexican crossing legally would be proportionally greater than on a relatively more affluent U.S. citizen.

The Department of State raises the above-stated concerns about the charging of land border crossing fees given our experience in negotiations with Canada and Mexico. We believe that implementation of such a proposal would require extensive and difficult prior negotiations with our neighbors. The Department of State will continue to work with the Congress and the other Executive branch agencies to examine these difficult issues.

Thank you. I would be happy to take any questions you might have.

Mr. CONDIT. Thank you.  
Mr. Hankinson.

**STATEMENT OF RICHARD HANKINSON, INSPECTOR GENERAL,  
U.S. DEPARTMENT OF JUSTICE**

Mr. HANKINSON. Good morning, Mr. Chairman and members of the subcommittee. I am pleased to appear before you again in another of this subcommittee's continuing and, I believe, very beneficial reviews of the Immigration and Naturalization Service. Today, you have asked that I discuss a number of reports by the Office of Inspector General relative to the issues associated with the collection of fees from individuals entering the United States at land border crossing points.

INS fees represent a very significant part of the annual operating funds. Its fiscal year 1993 budget consisted of approximately \$1,042 million in appropriated funds and another \$586 million in user fees generated revenues, providing ample reason to give the fee-related facets of INS funding a very close review.

My office has embarked on several projects that relate to INS fees. In December 1992 we completed an audit entitled "Controls Over Established User Fee Accounts in the Immigration and Naturalization Service." It estimated that INS will lose about \$114.8 million annually in user fee related program costs.

In general, our auditors suggested that the fees appropriately could include some direct program costs and indirect costs that were not then included as part of the fee algorithm.

In June 1993 we issued the "INS Fee Accounts Annual Financial Statement, Fiscal Year 1993," a report performed by outside CPA's under OIG oversight pursuant to the Chief Financial Officers Act of 1990.

There the auditors reported that the status of the service fee accounts accounting record made it impossible to perform the necessary audit procedures to enable them to express an opinion on the principal statements for the accounts for fiscal years 1991 and 1992.

This past month, in July 1993, the OIG issued a report on "Immigration Service and Special Benefits for Which Fees Have Not Been Established." This report attempted to survey and identify the opportunities available to INS for additional revenue collections.

We estimate that some 91 percent of the inspections and another 1 million applications and petitions that are performed by INS could be the subject of a possible fee that INS could generate an estimated \$170 million in revenues for services it renders.

The principal source of these additional revenues would come from the land border inspections. I will return to that in a moment.

The last project we have undertaken concerns the Land Border Inspection Fee Program and the pilot project establishing dedicated commuter lanes at Blaine, WA. This report is not yet finished so my remarks about it will be very limited.

In brief, however, we found the establishment of commuter lanes at Blaine expedited traffic, satisfied the using public, was marked by good team work between INS and Customs and generated revenues that recovered the costs to INS of conducting this experiment.

With this summary, let me return to the subject of land border inspection fees. We estimated that INS had the opportunity, and I repeat "opportunity," to recover as much as \$104 million of its current costs were it to impose such a fee.

We believe that INS could charge a higher fee if it wished to fund additional expenditures to upgrade its services, expand its inspection work force, and to speed the land inspection process.

Finally, we believe that INS should revive its prior consideration of such a fee and that both previous and recently issued OMB directives, in the form of A-25, urge INS to press forward even where legislative impediments may exist.

This concludes my remarks, Mr. Chairman.

If I could end with one observation, I think the subcommittee's selection of government witnesses reflects the reality of any corrective action that might exist; namely, that any solution of this sort will require the cooperation and goodwill of a number of agencies, particularly the ones represented here today.

Thank you. I will be pleased to take your questions.

[The prepared statement of Mr. Hankinson follows:]

Statement  
of  
Richard J. Hankinson  
Inspector General  
Department of Justice

Before the  
Subcommittee on Information, Justice,  
Transportation and Agriculture  
of the  
Committee on Government Operations  
United States House of Representatives  
August 3, 1993

Good Morning Mr. Chairman.

I am pleased to appear before you again in another of this Subcommittee's continuing and, I believe, very beneficial reviews of the Immigration & Naturalization Service. Today, you have asked that I discuss a number of reports by the Office of Inspector General relative to the issues associated with the collection of fees from individuals entering the United States at land border crossing points.

As you know, today's appearance was arranged with relatively short notice, so I hope you will appreciate that my prepared remarks are necessarily brief.

My office has been deeply concerned over the fees charged by various components of the Department of Justice for several years. We have found in several instances that the Department is not charging fees that it could properly charge and, in other cases, that the Department is charging fees that were too low, i.e., that failed to account for and collect the total and true costs associated with performance of the service. Hence, while we have done a great deal of work with INS' fees, by no means have we singled INS out for this scrutiny, and many of the lessons we have learned at INS probably apply equally to other components.

On the other hand, INS fees represent a very significant part of its annual operating funds. Its FY 1993 budget consisted of approximately \$1,042,000,000 in appropriated funds and another \$586 million in user fee generated revenues—providing ample reason to give the fee-related facets of INS funding a very close look. This is not a new issue. Back in 1987, the Justice Audit Staff (prior

to its transfer to the OIG) examined INS' Adjudication and Naturalization Fees. We found then that INS could charge an additional \$16.6 million if it increased its fees more frequently to capture the cost increases it was incurring, and that INS could charge an additional \$22.2 million in new fees for services it was then rendering.

More recently, my office has embarked on several projects that relate to INS fees. In December 1992, we completed an audit entitled, "Controls Over Established User Fee Accounts in the Immigration and Naturalization Service" (93-3), that estimated that INS will lose about \$114.8 million annually in user fee related program costs. In general, our auditors suggested that the fees appropriately could include some direct program costs and indirect costs that were not then part of the fee algorithm.

In June 1993, we issued the INS "Fee Accounts Annual Financial Statement, Fiscal Year 1992" (93-14A), a report performed by outside CPAs under OIG oversight pursuant to the Chief Financial Officers Act of 1990. There, the auditors reported that the status of the Service Fee Accounts accounting records made it impossible to perform the necessary audit procedures to enable them to express an opinion on the principal statements for the accounts for FYs 1991 and 1992.

This past month, in July 1993, the OIG issued the report on "Immigration Services and Special Benefits for Which Fees Have Not Been Established" (93-15). This report attempted to survey and identify the opportunities available to INS for additional revenue

collections. We estimate that some 91% of the inspections and another 1 million applications and petitions that are performed by INS could be the subject of a possible fee and that INS could generate an estimated \$170 million in revenues for the services it renders. The principal source of these additional revenues would come from land border inspections, and I will return to that in a moment.

The last project that we have undertaken concerns the Land Border Inspection Fee Program and the pilot project establishing dedicated commuter lanes at Blaine, Washington. This report is not yet finished, so my remarks about it will be very limited. In brief, however, we found the establishment of commuter lanes at Blaine expedited traffic, satisfied the using public, was marked by good teamwork between INS and Customs, and generated revenues that recovered the costs to INS of conducting this experiment.

With this summary, let me return to the subject of land border inspection fees. We estimated that INS had the opportunity to recover as much as \$104,000,000 of its current costs were it to impose such a fee. We believe that INS could charge a higher fee if it wished to fund additional expenditures to upgrade its services, expand its inspection workforce, and to speed the land inspection process. Finally, we believe that INS should revive its prior consideration of such a fee and that both previous and recently issued OMB directives, in the form of A-25, urge INS to press forward even where legislative impediments may exist.

That concludes my brief remarks, Mr. Chairman. If I could end

with one observation, I think the Subcommittee's selection of Governmental witnesses reflects the reality of any corrective action that might exist; namely, that solutions of this sort will require the cooperation and good will of a number of agencies, particularly the ones represented here today.

Thank you, and I would be pleased to take any questions the Subcommittee might have.

Mr. CONDIT. Thank you.  
Mr. Puleo.

**STATEMENT OF JAMES PULEO, ACTING EXECUTIVE ASSOCIATE COMMISSIONER FOR OPERATIONS, IMMIGRATION AND NATURALIZATION SERVICE**

Mr. PULEO. If I could I would like to have my full statement entered for the record, I will paraphrase it. I appreciate the opportunity to appear before you today to discuss the imposition of fees and tolls for crossing the border. The Immigration and Naturalization Service is working with other governmental and nongovernmental agencies to examine the problems and opportunities associated with a land border crossing fee. We believe that we could develop a concept, with the assistance of Congress, that may work.

The INS has had significant experience with the collection of fee for services on the border. Public Law 101-515 authorized the Attorney General to establish pilot projects which included the charging of a land border inspection fee and provided that the fee collected be utilized only to enhance land border inspection services.

The first location for a pilot project was established with the coordination of the U.S. Custom Service and Canadian border agencies known as the dedicated commuter lane in Blaine, WA or the PACE lane, peace arch crossing entry.

The dedicated commuter lane enables prescreened and preapproved, low risk, frequent border crossers to choose to participate in the pilot project to move smoothly into the United States through an abbreviated inspections process using a windshield decal and visual inspection, as well as periodic compliance checks.

DCL facilitates the expeditious entry of its participants and provides enforcement advantages for the FIS, Federal inspection services. The additional information made available through the DCL application process allows a more thorough screening of users, and with the added DCL, inspectors involved in processing remaining traffic through the regular lanes can provide increased attention to high risk vehicles and passengers.

Regular compliance checks permit the interception of any violators of the conditions and terms for the use of the DCL, who may be subject to severe penalties including revocation of the permit and seizure of the vehicle and/or any unlawful goods, as well as possible fines and/or prosecution.

The INS is also contemplating several other options for the collection of fees for services currently performed free of charge at land border ports of entry [POE's]. INS will shortly propose a land border fee regulation which includes provisions to impose a fee for three control documents issued to certain aliens requesting admission to the United States—I-94, I-94W, and I-444—and other benefits and services available to eligible aliens. These benefits and services include the issuance of a Canadian border boat landing permit, the issuance of the replacement nonresident alien border crossing card [BCC], and the issuance of nonresident alien Canadian border crossing card [CBCC].

Another initiative, proposed jointly by INS and Customs is the Permit Port Program. Permit ports would be accessed by means of a secure document or biometric reader or other technology to allow

local residents to enter the United States through a remote POE on the northern border during periods when the port is closed.

Also included in the interim rule establishing pilot land border fee programs, was a provision for collection of a per vehicle fee at selected POE's. A substantial number of sensitive issues have arisen with respect to this proposal.

For reasons of officer safety and significant administrative obstacles, INS is concerned about tasking primary inspectors with the collection of fees. All U.S. Government fees are, by law, required to be paid in U.S. funds, therefore, provisions would have to be made for the conversion of foreign money before the applicant arrives at the U.S. border.

To be asked to make change would distract the officers from the enforcement portion of their mission and impede the efficient and effective inspection of vehicular traffic. Should primary inspectors be tasked to collect fees, the inspection time would increase. Assuming that services were not enhanced and additional traffic lanes added, applicants for entry would pay more for less service.

There may also be certain legal questions which arise with respect to the collection of fees. They include whether inspectors could refuse entry to an individual because he or she was not in possession of sufficient funds. The government cannot deny entry to a U.S. citizen.

Another issue of potential concern is the physical limitations of some ports. Several land border POE's may not be amenable to facility modifications for the collection of a per vehicle or per capita crossing fee due to space limitations.

The charging of a per vehicle fee or per capita crossing fee could potentially have some negative ramifications. Fee opponents have claimed that such a charge is, in reality, a tax. Trade organizations and bridge authorities along the southern border oppose the per vehicle fee because they believe it would lead to reduced trade and a decline in commerce and the economic well-being of border communities. Canada might see it as contrary to the spirit of the free trade agreement [FTA] and Mexico may object based on the economic hardship to its citizens. Additionally, the possibility exists that both neighboring countries would initiate reciprocal fees.

The amount of money that could be raised from a per vehicle or pedestrian toll is also subject to debate. Although more than 400 million persons crossed the land borders in fiscal year 1992, many of these individuals crossed more than once a day. Certainly, a number of these individuals would consolidate trips to avoid the additional charges. There would also be a certain percentage of the border population who would feel it was easier to go around the POE and cross illegally into the United States rather than pay the fees.

Although some of the operational concerns raised by a per person border crossing toll can be overcome, INS is concerned about some implementation issues. At this time, we are not certain that this toll will raise the amounts of money projected. However, this plan may be expensive to implement because of facility construction and the need to hire, manage, and support toll collectors, and may also increase the waiting times at some POE's. INS, however, will work

closely with Congress and the executive branch agencies on these important issues.

I would be pleased to answer any questions you may have at this time.

[The prepared statement of Mr. Puleo follows:]

TESTIMONY OF

JAMES A. PULEO

ACTING EXECUTIVE ASSOCIATE COMMISSIONER FOR OPERATIONS  
IMMIGRATION AND NATURALIZATION SERVICE

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES  
GOVERNMENT OPERATIONS COMMITTEE  
SUBCOMMITTEE ON INFORMATION,  
JUSTICE, TRANSPORTATION AND AGRICULTURE

ON

BORDER FEES

AUGUST 3, 1993

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to discuss the imposition of fees and tolls for crossing the border. The Immigration and Naturalization Service (INS) is now working with other governmental and non-governmental agencies to examine the problems and opportunities associated with a land border crossing fee. We believe that we could develop a concept, with the assistance of Congress, that may work.

The INS has had significant experience with the collection of fees for services on the border. Public Law 101-515 authorized the Attorney General to establish pilot projects which included the charging of a land border inspection fee and provided that the fee collected be utilized only to enhance land border inspection services.

The first location for a pilot project was established with the coordination of the United States Customs Service (USCS) and Canadian border agencies. Known as the "Dedicated Commuter Lane (DCL)" in Blaine, Washington or the PACE Lane (Peace Arch Crossing Entry).

The DCL Program enables pre-screened and pre-approved, low-risk, frequent border crossers who choose to participate in the pilot project to move smoothly across the international border into the

United States through an abbreviated inspections process, using a windshield decal and visual inspection, as well as periodic compliance checks.

The DCL facilitates the expeditious entry of its participants, but also provides enforcement advantages for the Federal Inspection Services (FIS). The additional information made available through the DCL application process allows a more thorough screening of users, and with the added DCL, inspectors involved in processing remaining traffic through the regular lanes can provide increased attention to higher risk vehicles and passengers. Regular compliance checks permit the interception of any violators of the conditions and terms for use of the DCL, who may be subject to severe penalties including revocation of the permit and seizure of the vehicle and/or any unlawful goods, as well as possible fines and/or prosecution.

An annual, \$25 per vehicle user fee, is charged for those persons enrolled in the DCL program. As of July 1993, the INS has received more than 33,000 applications for participation in the DCL Program, and has collected more than \$949,000 in fees. The PACE Lane users state that the DCL saves an average of 45 minutes waiting time.

The INS is currently planning to expand the DCL program in coordination with the Customs Service, to other sites on the Northern border, including Point Roberts, Washington, and Detroit,

Michigan, before the end of this fiscal year.

The INS is also contemplating several other options for the collection of fees for services currently performed free of charge at land border Ports-of-Entry (POEs). INS will shortly propose a Land Border Fee regulation which includes provisions to impose a fee for three control documents issued to certain aliens requesting admission to the United States (I-94, I-94W, and I-444), and other benefits and services available to eligible aliens. These benefits and services include the issuance of a Form I-68, Canadian Border Boat Landing Permit, the issuance of the replacement Form I-586, Nonresident Alien Border Crossing Card (BCC), and the issuance of Form I-185, Nonresident Alien Canadian Border Crossing Card (CBCC).

INS is also drafting a separate but related proposed regulation to expand the I-68 Program to allow authorized persons to enter the United States at other than POEs without undergoing examination by an immigration inspector. In the past, this program was limited to Canadian/United States waterways but is being considered for expansion to specific land areas to address unique situations.

The INS draft proposed rule includes fees for two other cards. The Application for Nonresident Alien Mexican Border Crossing Card (Form I-190), is used by Mexican nationals to apply for issuance of Form I-586, Nonimmigrant Alien Border Crossing Card. The

Application for Nonresident Alien Canadian Border Crossing Card (Form I-175), is used by certain Canadian nationals and residents to apply for issuance of Form I-185, Nonresident Alien Canadian Border Crossing Card and generally serves as evidence of a long-term waiver of inadmissibility for the card holder. There is currently no fee for this service, which is a costly and time-consuming process administered at land border POEs.

Another initiative, proposed jointly by INS and Customs, is the Permit Port Program. Permit Ports would be accessed by means of a secure document or biometric reader or other technology to allow local residents to enter the United States through a remote POE on the northern border during periods when the port is closed. These ports may have limited hours of operation resulting from limited resources that have necessitated the curtailing of periods of operation.

Also included in the interim rule establishing pilot land border fee programs, was a provision for collection of a per vehicle fee at selected POEs. A substantial number of sensitive issues have arisen with respect to this proposal.

For reasons of officer safety and significant administrative obstacles, INS is concerned about tasking primary inspectors with the collection of fees. All U.S. government fees are, by law, required to be paid in United States funds, therefore, provisions

would have to be made for the conversion of foreign money before the applicant arrives at the United States border. To be asked to make change would distract the officers from the enforcement portion of their mission and impede the efficient and effective inspection of vehicular traffic. Since vehicles may be required to make two stops, one for the collection of a fee and another for immigration inspection, the total per vehicle time involved in passing through the POE could increase. Should primary inspectors be tasked to collect fees, the inspection time would still increase. In effect, there would not be more facilitation of traffic at the land border ports. Assuming that services were not enhanced and additional traffic lanes added, applicants for entry would pay more for less service.

There may also be certain legal questions which arise with respect to the collection of fees. They include whether inspectors could refuse entry to an individual because he or she was not in possession of sufficient funds. The government cannot deny entry to a United States citizen. However, it is possible that a bill similar to a traffic ticket be issued to U.S. citizens for deferred payment.

At this time, I would also like to identify a few potential problems if Federal inspectors are required to collect the fees. Immigration inspectors rotate from primary vehicle lanes to other duty locations within the POE, in most cases as often as every

thirty minutes. Such frequent rotations are often required by Occupational Safety and Health Administration (OSHA) standards and/or union agreements. Each rotation of an inspector through a primary lane could require a complete monetary inventory. This would further add to inspection time and cause severe traffic backups. There are also some potential security issues to be considered, such as the responsibility involved in carrying money when moving from one duty location to another and the fact that a law enforcement officer who has the authority to refuse an alien's admission to the United States is also accepting money. If a land border fee is imposed, INS will work with Congress and others to examine these implications and to determine what strategies could best be used to overcome these obstacles.

Another issue of potential concern is the physical limitations of some ports. Several land border POEs may not be amenable to facility modifications for the collection of a per vehicle or per capita crossing fee due to space limitations. In addition, the General Services Administration (GSA) is currently involved in executing the Capital Improvements Program (CIP), a \$375,000,000 multi-year program designed to update and improve existing southern border inspection facilities as well as to create new southern border POEs. At this time, all available funds assigned to the CIP have been committed and no new funding for southern border inspection facility construction is foreseen for the next several decades. However, the land border crossing fee may provide some

resources necessary for physical expansion.

The charging of a per vehicle fee or per capita crossing fee could potentially have some negative ramifications. Fee opponents have claimed that such a charge is, in reality, a tax. Trade organizations and bridge authorities along the southern border oppose the per vehicle fee because they believe it would lead to reduced trade and a decline in commerce and the economic well-being of border communities. Canada might see it as contrary to the spirit of the Free Trade Agreement (FTA) and Mexico may object based on the economic hardship to its citizens. Additionally, the possibility exists that both neighboring countries would initiate reciprocal fees.

Because of all of the above reasons, the per vehicle fee provision that INS initially envisioned was removed from the final rule at 8 CFR 286.8 allowing for the establishment of pilot programs for the charging of land border fees for inspection services.

The amount of money that could be raised from a per vehicle or pedestrian toll is also subject to debate. Although more than 400,000,000 persons crossed the land borders in fiscal year 1992, many of these individuals crossed more than once a day. Certainly, a number of these individuals would consolidate trips to avoid the additional charges. There would also be a certain percentage of the border population who would feel it was easier to go around the

POE and cross illegally into the United States rather than pay the fees.

Although some of the operational concerns raised by a per person border crossing toll can be overcome, INS is concerned about some implementation issues. At this time, we are not certain that this toll will raise the amounts of money projected. However, this plan may be expensive to implement because of facility construction and the need to hire, manage and support toll collectors, and may also increase the waiting times at some POEs. INS, however, will work closely with Congress and the Executive branch agencies on these important issues.

I would be pleased to answer any questions you may have at this time.

Mr. CONDIT. Mr. Carnes.

Mr. CARNES. Thank you, Mr. Chairman. I would like to give a short statement and include my written statement in the record.

Mr. CONDIT. Without objection.

**STATEMENT OF HARRY W. CARNES, USER FEE TASK FORCE,  
OFFICE OF INSPECTION AND CONTROL, U.S. CUSTOMS SERVICE**

Mr. CARNES. I am here today on behalf of the U.S. Customs Service to comment on a difficult and complex issue of interest to us all, border crossing fees.

Today with the current emphasis on reinventing government and reducing the deficit, at Customs we continue to examine the potential benefits that user fees may hold for us and others. In our assessments we weigh carefully our experience with fee collections as well as the concerns of the many groups who have an interest in them.

The Customs Service has a long history of collecting fees, primarily on behalf of other agencies. However, on July 7, 1986, after the passage of the Consolidated Omnibus Budget Reconciliation Act, Customs began to collect its own fees. These fees today are used to pay for all inspectional overtime, some air passenger preclearance, and to further enhance service levels for payers of the fees.

In December 1986, the Customs Service also began collecting a fee on imported cargo, called the merchandise processing fee, which offsets our commercial costs.

Since the implementation of these initial fees, Customs has been tasked with the collection responsibility for many more fees. We currently collect seven different import fees for the agricultural marketing service, two conveyance arrival fees for the animal and plant health inspection service, and a fee on vessel cargo and cruise passengers for the Corps of Engineers.

Today we collect \$1.2 billion in fees. We employ a variety of methods of collect these fees. Several are collected primarily at the time of arrival of the conveyance, others are collected at the time of duty payment on the imported merchandise or through periodic direct payments to a bank. Finally, some are collected by Customs through the mail.

Customs must have reliable methods to ascertain whether or not our collections are maximized. To this end, we depend on a variety of information sources, internal, other agencies, and private sector. In addition, we use our regulatory auditors to conduct user fee verification audits, an effort that has realized approximately \$5 for every dollar expended.

We have learned a great deal from our experience administering user fees. One of the most critical lessons has to do with the importance of adequate controls. Without these, revenue goals are difficult to achieve. To accomplish maximum compliance it is essential that the collecting agency and the benefiting agency, if different, be consulted early in the process. The collecting agency in particular needs an adequate legal framework to collect fees and to enforce compliance.

The user fee must also be consistent with our international treaty obligations. In addition, adequate resources for the collection of fees must be incorporated into the program implementation.

Finally, we believe there is an obligation to continue to provide improved service for user fee payers.

Clearly, the implementation of a border crossing fee requires careful deliberation. It would have an impact on the citizens of both Canada and Mexico. It is important, therefore, that we consult with both countries before institution of such a fee.

The United States-Canada Free Trade Agreement requires that consultation on "major proposed changes in Customs administration that would affect the flow of bilateral trade such as . . . processing of travelers."

We must be careful, if we decide to move forward with a border crossing fee, not to create new problems in the effort to solve old ones. We must ensure that a cross-border fee does not adversely affect border economies. It should not cause those who formerly crossed legally to attempt to cross illegally.

We then must determine if we can collect these fees in a cost-effective manner. In other words, what is the cost-benefit ratio going to be?

Another question is whether the collection method will generate additional traffic delays. Will there be sufficient resources to collect the fees and how much cooperation will be needed from the other governments?

A number of other questions also remain to be answered, and clearly they must be considered before the issue can be fully resolved.

Fortunately, we have already dealt with a wide variety of fees. We have a good record regarding agency management of the proceeds. We are very familiar with border issues and in most cases we have good working relationships with business and local governments. This experience places us in a unique position to provide guidance through this worthwhile inquiry.

Mr. Chairman, on behalf of the Customs Service and Commissioner Weiss, we want to thank you for providing the opportunity to address this very important and very relevant issue.

We will be glad to answer any questions.

[The prepared statement of Mr. Carnes follows:]



# **U.S. Customs Service**

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*Testimony of*

**Harry W. Carnes  
Director, User Fee Task Force**

*before the*

**Subcommittee on Information, Justice,  
Transportation, and Agriculture  
Committee on Government Operations**

*on*

**The Issue of Border Crossing Fees**

*August 3, 1993*

TESTIMONY OF HARRY W. CARNES  
DIRECTOR, USER FEE TASK FORCE  
UNITED STATES CUSTOMS SERVICE  
BEFORE THE  
SUBCOMMITTEE ON INFORMATION, JUSTICE, TRANSPORTATION,  
AND AGRICULTURE  
COMMITTEE ON GOVERNMENT OPERATIONS  
AUGUST 3, 1993

GOOD MORNING, MR. CHAIRMAN. WE APPRECIATE THE OPPORTUNITY TO TESTIFY TODAY ON THE VERY DIFFICULT, COMPLEX, BUT IMPORTANT ISSUE OF WHETHER OR NOT TO IMPOSE A BORDER CROSSING FEE. WE HOPE OUR INSIGHTS ARE OF ASSISTANCE IN YOUR DELIBERATIONS.

THE CUSTOMS SERVICE HAS HAD A LONG HISTORY OF COLLECTING FEES, PRIMARILY ON BEHALF OF OTHER AGENCIES. IN 1986, CUSTOMS ENTERED INTO ITS OWN USER FEE ERA. IT HAS LEARNED MUCH ABOUT IMPLEMENTING AND ADMINISTERING USER FEES IN SUBSEQUENT YEARS. WE BELIEVE CUSTOMS IS UNIQUELY QUALIFIED TO PROVIDE INFORMATION VITAL TO YOUR EVALUATION.

TO PROVIDE YOU WITH SOME BACKGROUND, ON JULY 7, 1986, WITH THE PASSAGE OF THE CONSOLIDATED OMNIBUS RECONCILIATION ACT (COBRA) OF 1985, THE CUSTOMS SERVICE BEGAN TO COLLECT SEVEN PASSENGER AND CONVEYANCE FEES. THE REVENUES DERIVED FROM SUCH FEES ARE INTENDED TO PAY FOR ALL INSPECTIONAL OVERTIME AND SOME AIR PASSENGER PRECLEARANCE COSTS, FORMERLY PAID BY THE AIRLINE INDUSTRY.

IN DECEMBER OF 1986, THE CUSTOMS SERVICE BEGAN COLLECTING A MERCHANDISE PROCESSING FEE (MPF), BASED UPON THE VALUE OF IMPORTED COMMERCIAL MERCHANDISE. THIS WAS A RESULT OF THE ENACTMENT OF THE OMNIBUS BUDGET RECONCILIATION ACT (OBRA) OF 1986. THIS FEE IS INTENDED TO OFFSET THE COST OF CUSTOMS

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## COMMERCIAL OPERATIONS.

SINCE THE IMPLEMENTATION OF THESE INITIAL FEES, CUSTOMS HAS BEEN TASKED WITH THE COLLECTION OF MANY OTHER FEES THROUGH A VARIETY OF LAWS AND ON BEHALF OF A NUMBER OF AGENCIES. FOR EXAMPLE, CUSTOMS COLLECTS FEES ON IMPORTED BEEF, PORK, HONEY, COTTON, PECANS, POTATOES, AND MUSHROOMS FOR THE AGRICULTURAL MARKETING SERVICE (AMS). IT COLLECTS A COMMERCIAL TRUCK AND A VESSEL ARRIVAL FEE FOR THE ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS). IT ALSO COLLECTS A HARBOR MAINTENANCE FEE (HMF) FOR THE CORPS OF ENGINEERS ON IMPORTED, EXPORTED, AND DOMESTIC VESSEL CARGO AND ON CRUISE PASSENGERS.

FINALLY, CUSTOMS CONTINUES TO LOOK AT OTHER USER FEE OPTIONS. WE HAVE BEEN WORKING WITH THE IMMIGRATION AND NATURALIZATION SERVICE (INS) ON A DEDICATED COMMUTER LANE PILOT PROGRAM AT BLAINE, WASHINGTON SINCE 1991. WE HAVE ENDORSED THIS CONCEPT FOR EXPANSION, WHERE APPROPRIATE. THE FEES GENERATED BY THIS ACTIVITY ARE AVAILABLE ONLY TO THE INS. FOR THE PAST SEVERAL YEARS OUR APPROPRIATION LANGUAGE HAS PRECLUDED THE CUSTOMS SERVICE FROM INDEPENDENTLY PURSUING A LAND BORDER USER FEE AT PORTS ALONG THE U.S./MEXICAN BORDER.

TODAY, THE CUSTOMS SERVICE IS ONE OF THE LARGEST COLLECTORS OF USER FEES IN THE FEDERAL GOVERNMENT. IN FY92, TOTAL COLLECTIONS FROM CUSTOMS USER FEES WERE \$670 MILLION, AND FEES COLLECTED ON BEHALF OF OTHER AGENCIES TOTALLED \$546 MILLION. THE GRAND TOTAL IS OVER \$1.2 BILLION.

TO COLLECT THESE FEES, CUSTOMS EMPLOYS A VARIETY OF METHODS.

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SEVERAL FEES ARE COLLECTED AT THE TIME OF ARRIVAL. EXAMPLES ARE THE CUSTOMS AND AGRICULTURE COMMERCIAL TRUCK FEES. OTHERS ARE COLLECTED AT THE TIME OF DUTY PAYMENT ON IMPORTED MERCHANDISE, SUCH AS THE HARBOR MAINTENANCE FEE ON VESSEL CARGO. STILL OTHERS ARE COLLECTED THROUGH PERIODIC DIRECT PAYMENTS TO A BANK, KNOWN AS A LOCKBOX OPERATION. EXAMPLES INCLUDE THE AIR AND SEA PASSENGER FEES. FINALLY, SOME ARE COLLECTED DIRECTLY BY CUSTOMS VIA MAIL. AN EXAMPLE IS THE ANNUAL PAYMENT FOR PRIVATE AIRCRAFT.

TO MEASURE WHETHER OR NOT COLLECTIONS ARE MAXIMIZED, CUSTOMS HAS HAD TO USE A VARIETY OF INFORMATION SOURCES. THIS INCLUDES INTERNAL, OTHER FEDERAL AGENCY, AND PRIVATE SECTOR SYSTEMS. IN ADDITION, CUSTOMS DEVOTES SOME OF ITS REGULATORY AUDITORS TO USER FEE COLLECTION VERIFICATION AUDITS. THEIR EFFORTS HAVE RESULTED IN RECOVERY OF APPROXIMATELY \$5 FOR EVERY \$1 IN COSTS.

WHAT HAVE WE LEARNED FROM OUR EXPERIENCE? A GREAT DEAL. THE FIRST AND MOST IMPORTANT LESSON IS ADEQUATE CONTROLS MUST BE IN PLACE OR CAPABLE OF BEING PUT IN PLACE. WITHOUT THEM, REVENUE GOALS ARE DIFFICULT TO ACHIEVE. WHERE CONTROLS ARE SUFFICIENT, SUCH AS FOR FEES ON IMPORTED CARGO, WE CAN MAINTAIN A HIGH LEVEL OF REVENUE COLLECTION COMPLIANCE. ON THE OTHER HAND, WHERE CONTROLS ARE NOT ADEQUATE, WE ARE FACED WITH EXTRAORDINARY CHALLENGES AND COSTS TO ACHIEVE HIGH COMPLIANCE LEVELS.

SECOND, TO MAXIMIZE COMPLIANCE, IT IS ESSENTIAL THAT THE COLLECTING AGENCY, IN ADDITION TO ANY OTHER BENEFITING AGENCY, BE CONSULTED EARLY IN THE PROCESS. THE COLLECTING AGENCY NEEDS AN ADEQUATE LEGAL FRAMEWORK TO COLLECT FEES AND TO ENFORCE

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COMPLIANCE THIS IS ANOTHER REASON WE APPRECIATE OUR EARLY INVOLVEMENT IN THESE DISCUSSIONS.

THIRD, THE FEE MUST BE CONSISTENT WITH OUR INTERNATIONAL TREATY OBLIGATIONS. THE CUSTOMS MERCHANDISE PROCESS FEE, ORIGINALLY AN AD VALOREM FEE ON IMPORTED MERCHANDISE, WAS DECLARED IN VIOLATION OF OUR TREATY OBLIGATIONS BY THE GATT IN EARLY 1988. THIS PROBLEM RESULTED IN A MAJOR CHANGE IN THE FEE STRUCTURE AND IN LOWER REVENUES. IN FY91, CONGRESS CORRECTED THIS PROBLEM BY ENACTING THE CUSTOMS AND TRADE ACT OF 1990, SO THAT THIS FEE WOULD BE IN COMPLIANCE WITH INTERNATIONAL OBLIGATIONS.

FOURTH, ADEQUATE RESOURCES TO COLLECT FEES MUST BE IDENTIFIED AND MADE AVAILABLE FOR PROGRAM IMPLEMENTATION. THE CUSTOMS SERVICE WAS GIVEN RESPONSIBILITY FOR COLLECTING THE HARBOR MAINTENANCE FEE IN 1987, BUT NO RESOURCES. AS A CONSEQUENCE, MONIES TO IMPROVE DATA SYSTEMS TO INCREASE COLLECTION ON EXPORTS HAVE NOT BEEN AVAILABLE TO CUSTOMS OR TO THE CENSUS BUREAU. DESPITE THAT, CUSTOMS HAS IMPROVED THE COLLECTION OF THE FEES. HOWEVER, ADMINISTRATION SPONSORED LEGISLATION TO CORRECT THIS PROBLEM HAS AN EXCELLENT CHANCE FOR PASSAGE THIS YEAR.

FIFTH, USER FEES OBLIGATE THE AGENCY BENEFITING FROM THEM TO TAKE POSITIVE ACTIONS TO BETTER SERVE THE PAYERS. THE AIR INDUSTRY HAS TESTIFIED IN SUPPORT OF ELIMINATION OF EXEMPTIONS TO ITS PASSENGER USER FEE. THIS IS BECAUSE 459 INSPECTIONAL PERSONNEL HAVE BEEN HIRED AND MILLIONS OF DOLLARS IN NEW

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EQUIPMENT HAVE BEEN PURCHASED WITH USER FEE REVENUES TO FURTHER FACILITATE THE MOVEMENT OF PASSENGERS THROUGH OUR INTERNATIONAL AIRPORTS.

EVEN WHERE CUSTOMS DOES NOT RECEIVE A DIRECT BENEFIT FROM USER FEES, SUCH AS IN THE CASE OF THE MERCHANDISE PROCESSING FEE, THE CUSTOMS SERVICE BELIEVES IT HAS AN OBLIGATION TO IMPROVE SERVICE. FOR EXAMPLE, WE HAVE ELIMINATED THE 35 MILE RULE FOR SERVICE TO FOREIGN TRADE ZONES (FTZ'S). THIS RULE PROVIDED THAT CUSTOMS WOULD ONLY GRANT SERVICE TO FTZ'S THAT WERE WITHIN 35 MILES OF A PORT OF ENTRY.

FINALLY, THE VICE-PRESIDENT'S NATIONAL PERFORMANCE REVIEW (NPR) TASK FORCES ARE LOOKING AT THE ISSUE OF HOW USER FEES FACILITATE GOVERNMENT SERVICES AND WHAT ADDITIONAL FEES MAY BE APPROPRIATE. WE BELIEVE THAT IF PROPERLY CRAFTED, USER FEES CAN PROVIDE FURTHER BENEFITS TO THE FEDERAL GOVERNMENT, THE TAXPAYER, AND THE PAYER OF THE FEE.

IN CONSIDERING A BORDER CROSSING FEE, THE BENEFITS, USES, AND OBSTACLES TO THE FEE NEED TO BE WEIGHED. TODAY WE WOULD LIKE TO GIVE YOU THE CUSTOMS PERSPECTIVE FOR EACH.

THE BENEFITS TO BE DERIVED ARE RATHER STRAIGHTFORWARD. A USER FEE PLACES ALL OR PART OF THE COST BURDEN ON THE USERS OF THE GOVERNMENT SERVICE, RATHER THAN ON THE GENERAL PUBLIC. IT PERMITS GOVERNMENT TO USE GENERAL REVENUES, FORMERLY USED TO FUND CURRENT SERVICE LEVELS OR TO FUND ANTICIPATED INCREASES IN SERVICE, FOR OTHER PRIORITIES, SUCH AS DEFICIT REDUCTION, FOR EXAMPLE. FINALLY, IT LINKS THE LEVEL OF SERVICE TO THE

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WILLINGNESS AND ABILITY OF THE USER TO PAY.

USER FEES CAN BE USED TO PAY FOR THINGS THAT ARE BENEFICIAL TO THE PAYER OF THE FEE. SENATOR FEINSTEIN, IN HER SIX POINT PLAN, IDENTIFIES SOME APPROPRIATE USES FOR A BORDER CROSSING FEE, SHOULD ONE BE IMPLEMENTED. IT COULD BE ARGUED THAT CUSTOMS INSPECTORS, WHO ARE CROSS-DESIGNATED TO PERFORM INS FUNCTIONS, AS ARE INS OFFICERS TO PERFORM CUSTOMS PASSENGER SCREENING FUNCTIONS, ALSO BE INCLUDED. WE WOULD ALSO SUGGEST THAT THE PROCEEDS OF SUCH A FEE BE USED TO COVER THE COST OF INFRASTRUCTURE IMPROVEMENTS AND ALL SUPPORT COSTS (WHICH INCLUDE EQUIPMENT) TO MAINTAIN OR INCREASE PERSONNEL ALONG THE BORDERS.

IN LOOKING AT A BORDER CROSSING FEE, THERE ARE A NUMBER OF ISSUES THAT NEED TO BE ADDRESSED. THE ISSUES ARE INTERNATIONAL, LEGAL, POLITICAL, ECONOMIC, AND OPERATIONAL.

THE INSTITUTION OF A BORDER CROSSING FEE WILL HAVE A DIRECT IMPACT ON THE CITIZENS OF CANADA AND MEXICO. APPROXIMATELY FORTY PERCENT OF THE VEHICLES CROSSING ON THE U.S.-MEXICAN BORDER ARE REGISTERED IN MEXICO. ABOUT SIXTY-FIVE PERCENT OF THE VEHICLES CROSSING THE U.S.-CANADIAN BORDER ARE REGISTERED IN CANADA. AS A CONSEQUENCE, IT IS CRITICAL THAT CONSULTATIONS WITH BOTH COUNTRIES BE ACCOMPLISHED BEFORE INSTITUTION OF A FEE. WITH RESPECT TO CANADA, THE U.S.-CANADA FREE-TRADE AGREEMENT ALSO REQUIRES FORMAL NOTIFICATION AND CONSULTATION ON "MAJOR PROPOSED CHANGES IN CUSTOMS ADMINISTRATION THAT WOULD AFFECT THE FLOW OF BILATERAL TRADE SUCH AS:... THE PROCESSING OF TRAVELLERS."

THE ECONOMIC CONSEQUENCES OF A BORDER CROSSING FEE NEED TO

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BE EVALUATED CLOSELY. IN TRYING TO SOLVE ONE PROBLEM, OTHERS MAY BE EXACERBATED. BORDER COMMUNITIES IN MANY AREAS DEPEND UPON LEGITIMATE CROSS BORDER TRAFFIC FOR THEIR ECONOMIC WELL BEING. IT IS NO SECRET THAT MANY CANADIANS COME TO THE U.S. TO SHOP; WHAT LEVEL OF FEE WOULD BEGIN TO DISCOURAGE THIS? ON THE MEXICAN BORDER THIS ISSUE IS EVEN MORE SENSITIVE, DUE TO GENERALLY LOWER ECONOMIC STANDARDS IN MEXICO.

THE OTHER ECONOMIC ISSUE TO PONDER IS HOW MUCH IT WILL COST TO COLLECT THE FEE. IF PEOPLE AND TOLL FACILITIES ARE NEEDED TO COLLECT THE FEE, THE COST BENEFIT RATIO SHOULD BE ANALYZED. AT THIS POINT IN TIME, WE DON'T BELIEVE WE HAVE A CLEAR IDEA WHAT IT WOULD BE.

THE TRAFFIC ACROSS INSPECTION POINTS IS ALREADY SLOW BECAUSE OF INADEQUATE INFRASTRUCTURE AND THE SHEER VOLUME OF TRAFFIC. IMPOSITION OF A TOLL COLLECTION OPERATION COULD ACTUALLY INCREASE DELAYS AND FURTHER EXACERBATE THE PROBLEM. DELAYS CAUSE AN INCREASE IN EXHAUST EMISSIONS ALONG THE BORDER. AS YOU CAN IMAGINE, INCREASED EMISSIONS HAVE A LESS THAN POSITIVE IMPACT ON OUR EMPLOYEES AND THE RESIDENTS WHO LIVE IN THE VICINITY OF BORDER CROSSINGS. MANY BORDER CROSSINGS GO RIGHT THROUGH THE HEART OF A CITY OR TOWN.

THERE ARE SEVERAL OTHER ISSUES TO CONSIDER. IF A FEE IS TO BE SERIOUSLY PURSUED, ARE FACILITIES, STAFFING, AND TECHNOLOGY ADEQUATE AND AVAILABLE? WHAT KIND OF COOPERATION CAN WE EXPECT FROM OTHER COUNTRIES? DEPENDING ON THE COLLECTION METHODOLOGY, ONE OR MORE OF THESE ISSUES COMES INTO PLAY.

IF A FEE IS TO BE COLLECTED AT THE TIME OF CROSSING, WE MUST DETERMINE WHETHER OR NOT CURRENT FACILITIES CAN ABSORB POTENTIAL INCREASED DELAYS. WE SHOULD ASK, AT A MINIMUM, THE FOLLOWING QUESTIONS: IS THERE ROOM TO RETURN A NONPAYER TO HIS OR HER COUNTRY WITHOUT CREATING HUGE TRAFFIC PROBLEMS? SHOULD A NONPAYER BE DENIED ENTRY? IS THERE SUFFICIENT STAFFING TO COLLECT THE FEE? IF NOT, WE NEED TO CONSIDER WHETHER FEDERAL, STATE AND LOCAL, OR PRIVATE SECTOR PERSONNEL WOULD BE THE MOST EFFICIENT AND EFFECTIVE MEANS TO COLLECT THE FEE ON BEHALF OF THE FEDERAL GOVERNMENT.

IF A BILLING SYSTEM OR DEBIT CARD APPROACH IS CONSIDERED THE BEST WAY, WILL THE MEXICAN AND CANADIAN GOVERNMENTS ASSIST IN THE COLLECTION OF THE FEE FROM THEIR CITIZENS? WOULD WE BE WILLING TO DO THE SAME ON BEHALF OF BOTH GOVERNMENTS, IF THEY INSTITUTED A SIMILAR FEE? WE WOULD ALSO NEED TO CONSIDER WHETHER OR NOT **RELIABLE** TECHNOLOGY IS AVAILABLE. IT MUST BE ABLE TO OPERATE IN THE HIGH HEAT AND HUMIDITY OF THE SOUTHERN BORDER AND THE LOW TEMPERATURES AND SNOW ALONG THE NORTHERN BORDER. IF THE TECHNOLOGY IS AVAILABLE, CAN A DEBIT CARD APPROACH BE IMPLEMENTED UNIVERSALLY, OR MUST WE ACCOMMODATE TOURISTS OR INFREQUENT CROSSERS DIFFERENTLY?

IF THE DEDICATED COMMUTER LANE CONCEPT IS CONSIDERED, ARE FACILITIES ADEQUATE? IF NOT, WILL THE MEXICAN AND CANADIAN GOVERNMENTS ENHANCE OR BUILD ACCESS ROADS TO ESTABLISH COMMUTER LANES? GIVEN OUR CONCERN WITH NARCOTICS AND ALIEN SMUGGLING, WE NEED TO PROVIDE SUFFICIENT SAFEGUARDS IF THE COMMUTER LANE IDEA

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IS TO WORK AT THE SOUTHWEST BORDER, FOR EXAMPLE.

THIS IS JUST A SAMPLING OF HOW THESE VARIOUS ISSUES WILL COME INTO PLAY IN ANY DELIBERATIONS OVER WHETHER OR NOT TO INSTITUTE A BORDER CROSSING FEE. AS I SAID, THE TASK IS DIFFICULT AND COMPLEX. NONETHELESS, SUCH A FEE COULD ASSIST IN IMPROVING BORDER CROSSING CONDITIONS AND DESERVES CONSIDERATION. THE CUSTOMS SERVICE AND THIS ADMINISTRATION SUPPORTS THE CONGRESSIONAL INITIATIVE TO DETERMINE IF THIS BORDER CROSSING FEE CONCEPT IS A GOOD PUBLIC POLICY IDEA.

WE BELIEVE THAT THE CUSTOMS SERVICE CAN PROVIDE VALUABLE INSIGHTS INTO THIS PROCESS. ITS EXPERIENCE IN DEALING WITH A WIDE VARIETY OF FEES, ITS GOOD RECORD OF MANAGING THE PROCEEDS OF SUCH FEES, ITS FAMILIARITY WITH BORDER ISSUES, AND ITS GENERALLY GOOD WORKING RELATIONSHIPS WITH BUSINESS INTERESTS, THE INS, AND LOCAL GOVERNMENTS MAKE IT UNIQUELY CAPABLE OF PROVIDING GUIDANCE THROUGH THIS PROCESS. THANK YOU, MR. CHAIRMAN, FOR PROVIDING US THE OPPORTUNITY TO PRESENT OUR VIEWS ON THIS IMPORTANT ISSUE. IF THERE ARE ANY QUESTIONS, WE WILL BE PLEASED TO ANSWER THEM.

Mr. CONDIT. Thank you. We are also delighted to have join us our colleague from Ohio, Mr. Portman. If you have a statement you would like to submit for the record, we will be glad to have that.

Mr. Hankinson, your report estimates that potential annual revenue from a 50 cents per person vehicle land-water port of entry inspection fee could total about \$210 million.

In your opinion, does INS have the authority to charge per person or per vehicle toll right now without additional legislation from Congress?

Mr. HANKINSON. Yes, our review of this matter, Mr. Chairman, indicates that INS has this authority under 31 U.S.C. 9701, which was revised in 1982. Also, it is strengthened by the recently issued OMB Circular A-25. So we think they do have the authority.

Mr. CONDIT. Mr. Hankinson, OMB Circular A-25 first issued in 1959, you remember 1959, establishes guidelines for Federal agencies to access fees for government services. Your audit report relies heavily on this document to establish INS responsibilities to charge fees.

Last month OMB Circular A-25 was rescinded and then reissued. Does the new version have any impact on your recommendations at all?

Mr. HANKINSON. The new version dated July 15 of this year, I believe, strengthens the impact that this fee structure could have; that is, it gives additional authority or additional strength to INS to recover costs associated with the services they perform at the border.

Mr. CONDIT. Mr. Puleo, if I take your comments correctly, I take it that you disagree with Mr. Hankinson's view that this can be done without legislative effort from Congress. Is that correct?

Mr. PULEO. Right. The Immigration Service position, especially on A-25, is that the identifiable beneficiary is not the traveler, but the Nation, and because of that no particular individual fee could be established under that circular.

Mr. CONDIT. How about the legislation enacted in 1990, and I have the section here of the Immigration and Naturalization Act, would you disagree that that does not give the authority? I just want to be sure that we are talking about the same section, 1990 IRCA.

Mr. PULEO. Under that provision it could be imposed, but the problem with that is that it sunsets in September of this year.

Mr. CONDIT. Mr. Hankinson, do you have a comment?

Mr. HANKINSON. That is just for one particular area. That is Blaine, WA, and the authority to expand the commuter lanes. I think that is separate from the law that gives INS the authority to impose a land-border fee. So these are two different issues to a degree.

Mr. CONDIT. Mr. Puleo, if you have that view and INS has that view, I guess your intentions would be that INS intends to seek some legislative change related to certain fees. What is the status of that effort?

Mr. PULEO. As I said in my opening statement, we are seeking regulatory changes for those services we provide free of charge, because the beneficiary can be identified as the person making the application for the benefit at a land border inspection port of entry.

We believe we currently have a statutory authority to impose those fees and the regulation is circulating through the agency and hopefully it will be in the Federal Register very shortly. However, I believe your question was on individual land border inspection fee.

Mr. CONDIT. Yes. We would like to have you on record whether or not the changes that you are being contemplating now relate to reestablishing any border fees.

Mr. PULEO. The answer to that is, no. We believe, as I said, that A-25 does not give us authority, although the land border inspection fee that you cited does. However, it sunsets in September of this year.

Mr. CONDIT. Some of the testimony from this panel did not come in until yesterday evening. That is all right with me, but we apologize if we are asking questions that may be in your testimony. Forgive us for that. But we would like to get some answers to some specific questions.

Mr. Hankinson, INS disagrees with the recommendation in your audit report that INS impose a border crossing fee. What do you think of INS' reasons for opposing the border fee?

Mr. HANKINSON. I reviewed this very carefully. I looked at, for example, and am very sensitive to, the safety issue. I spent 27-plus years in law enforcement-related work. I know that there are some sensitive areas here, bilateral agreements, treaties, foreign policy.

I personally, and in my office, I must say, we believe there are no insurmountable issues here. I do believe that it is incumbent upon INS to look at the opportunities that are available to them to recover the costs that are associated with the inspection duties at the border and then to take whatever action is necessary, working with the Department of State, working with the Department of Treasury and Customs, working with OMB, and if necessary to work with this Congress to enact any legislation that may become necessary.

So I believe the reticence on the part of INS to move forward in this area is not really in concert with the opportunities that do exist.

Mr. CONDIT. Mr. Carnes, what do you think? Do you think charging a border toll is a good idea?

Mr. CARNES. Conceptually, the Customs Service believes there may be merits to a border fee. What we are here today to talk about is the feasibility of doing that. That issue is paramount in our deliberations. As a result, the Customs Service has not taken a position on whether or not it is feasible to follow through with the concept.

Mr. CONDIT. Mr. Hankinson, your report discusses splitting the proceeds of a border toll between INS and Customs? Do you think that is advisable?

Mr. HANKINSON. I think in certain cases it is very advisable, INS and Customs perform functions at the border together. In some areas Customs will perform the INS function and vice versa. So I think it is appropriate in those particular instances to share any fees that come in as a result of a border inspection fee.

Mr. CONDIT. What do you think, Mr. Carnes?

Mr. CARNES. I would have to agree. We share responsibility for enforcement. If a fee were imposed, we would believe that sharing would be appropriate.

Mr. CONDIT. Mr. Carnes, you pointed out in your prepared testimony that the Customs Service already collects a variety of fees. Do you believe that Customs has the ability to collect a border crossing toll?

Mr. CARNES. We clearly have the ability to collect a commercial fee. We collect several fees on the border right now. What we are talking about now is a noncommercial fee. As I said, the feasibility of that is still in question. We don't have a position at the present time.

Mr. CONDIT. You are staying neutral on that.

OK, Mr. Thomas, do you have any questions for this panel?

Mr. THOMAS. Yes, thank you, Mr. Chairman. I guess I would like to go back to the State Department. I am a little bit concerned as to whether we are just talking about getting more money or whether we have a commitment to do something about illegal immigration. What is your position on illegal immigration?

Ms. HRINAK. Certainly the State Department opposes illegal immigration. But I think you have asked the right question in that the land border crossing fee, like any single aspect of dealing with illegal immigration, carries a certain danger that it may be viewed in isolation rather than as part of an overall immigration policy.

I think we have all been rudely awakened recently to the need for cooperation on immigration issues with our two closest neighbors because of the unfortunate incident of PRC Chinese nationals arriving in Mexico intending to come to the United States. We counted very heavily on cooperation with Mexico in resolving that case. That is why, from our point of view, consultation with our neighbors on a change of this nature or any other change in our immigration policy is important.

Mr. THOMAS. But the position clearly is to do whatever we can to eliminate illegal immigration; is that right?

Ms. HRINAK. We certainly believe that illegal immigration—and I think Senator Feinstein elucidated some of those problems and I have been on that part of the border, and seen what she saw. It is a serious concern to the whole country.

I think the question is one of balance to make sure that we don't harm other serious foreign policy issues and domestic concerns that people have, that we facilitate legal processing at this time, and we patrol our borders.

Mr. THOMAS. Are you opposed to illegal immigration?

Ms. HRINAK. Yes, sir. We favor implementation of all laws.

Mr. THOMAS. That is a puzzlement to me, frankly. Illegal immigration, by definition, we ought to be opposed to.

Ms. HRINAK. I find the question somewhat surprising. Clearly we oppose something that is clearly illegal.

Mr. THOMAS. It will be interesting to see how opposed we are.

Ms. HRINAK. It is a question of balance.

Mr. THOMAS. Maybe so. It is not a question of balance on anything else that is illegal. The inspector general indicates that INS charges fees for less than 9 percent of the inspections performed.

Why is that? We are talking about funding and charging a fee for services. Why isn't that a higher percentage?

Mr. PULEO. The comparison given is the comparison between those who arrive on air and sea and those who arrive on land. Obviously the majority of our entries are on land. Last year we had 538 million entries land, air, and sea—460 million by land. If you compare that number to the total, obviously we have the ability under statute to charge a fee for air arrivals, which currently is the 9 percent.

On the applications issue, as I said before, we are in the process of promulgating a regulation to cover those fees for services that we do now at land ports of entry. So we do agree with that.

The parts we disagree with the IG report are where we cannot charge a fee because of statute or because of reciprocal agreements with other countries. Where we have the ability to charge a fee under law, we in fact are charging a fee or will soon charge a fee. But the difference between the 9 percent and the 100 percent is the land-water traffic.

Mr. THOMAS. There is a separation of power here and we are all interested in accomplishing certain things. The executive sometimes says, "Well, we don't have the legal statutory authority." All you have got to do is come and talk about it, generally. But you don't do much of that.

You sit over here and say, "We can't do that." The Congress sits over here and says, "Why in the hell don't you?" If that is what you want to do, why don't you say that to the Congress and make a case for it, or do you?

Mr. PULEO. As I said in my statement and as the Customs Service also stated, we are looking at this concept right now. This is a part of the beginning of the consultation process. Your committee has asked for our views on it. Currently these are our views, without looking at it further, and the administration is committed to looking at it.

Mr. THOMAS. I encourage you when you have an idea that would make things work better, not to wait. You ought to feel free to—is it a matter of money?

You have, as I understand, 3,000 to 5,000 people crossing from Mexico to California every night. Sixty percent of them succeed. You can do something about it if you had another \$100 million?

Mr. PULEO. Obviously we could do a lot more if we had the money. There is no part of the world where you have as much legal traffic or illegal than that portion, the 14-mile portion of California. The port of entry is the largest land port of entry in the world.

In comparison, there are 52 million entries through that port of entry, that is equal to the entire entry into the United Kingdom. There is no more illegal point of entry than that 14 miles.

We have located there largest Border Patrol station and sector. Nothing compares to it. The second largest is El Paso. But there is no more comparison.

Mr. THOMAS. How much money would it take to eliminate illegal entry in that area?

Mr. PULEO. That is quite a question. Can we in fact seal the entire border.

Mr. THOMAS. And the answer is probably no?

Mr. PULEO. Probably.

Mr. THOMAS. So this is just one thing. It probably isn't going to be a solution, but it may be helpful?

Mr. PULEO. Yes. The problem is systemic. If we are looking at controlling, if not eliminating the illegal flow, obviously research is required.

Mr. THOMAS. I understand, Mr. Carnes, there is a formula between INS and Customs determining how many agents will staff the inspection points, and that there is sometimes a little turf going on between the two agencies in terms of how many will exist there. Does that sound familiar to you?

Mr. CARNES. I don't think it is a question of turf. I think it is a question of resources and capability of staffing up to the commitment.

Mr. THOMAS. I suspect we will have some testimony later on that says in order to keep the ratio that the two agencies seem to not be able to come together on, there needs to be full staffing?

Mr. CARNES. Customs has been rather fortunate in the appropriation process over the last couple of years. We have put out a great deal of additional people to ensure that the primaries are staffed, especially during peak periods, to minimize delays on the southern border. So I know that is a continuing concern, and we both try to work together on that, to try to keep the stations open and as fully staffed as possible, especially during peak periods.

Mr. PULEO. I agree that it is more a matter of resource than turf. However, some of the latest studies show that we can improve our coordination. That is what we are attempting to do.

The fee for service that we are hoping to impose will give us additional resources that we can meet our commitment. Customs has been very good at holding up their end of the bargain. We have not, simply because of resources.

With the additional revenue that would come in from fee for service, we would put more land inspectors on and meet our commitment to this agreement.

Mr. THOMAS. The Blaine, WA experiment or program seems to be successful. Why aren't there more of those, Mr. Carnes?

Mr. CARNES. Well, the test is being expanded to several other locations. I think the issue comes down to that Blaine has some rather large advantages. And you are looking at a diversity of border crossings. You have bridges, tunnels, one-lane highways, multilane highways, such as San Ysidro. To apply any one solution probably is not a workable solution. And that is one of the reasons I think we are moving very slowly in that area.

Mr. PULEO. We are looking to expand it. We have had studies with Customs along the northern border. We are looking at Detroit as a site we would like to expand. But it does require some modifications of the ports of entry. Not as much as we think, but we would be required on a per vehicle—

Mr. THOMAS. That is a way to expedite movement and also create some funding, isn't it?

Mr. PULEO. Absolutely. It has proved to be quite an attractive option, both for the inspection agencies and for the community. The community has gained because of the increase in traffic going

across the border. And obviously we have, because we are able to do our job better.

Mr. THOMAS. One final comment, question, I guess. It is always a puzzlement to me, Mr. Hankinson represents Justice, and you all don't agree on some interpretation of the law. I don't understand that.

Who is going to resolve that? Isn't somebody going to say, this is the way it is?

Mr. PULEO. Supposedly the Office of Legal Counsel is the final arbiter on law for the entire government. So I assume—and they are part of the Department of Justice. So I assume if there is a point of disagreement with regard to law, they would be the final arbiter.

Mr. THOMAS. I urge to you try to come to the same point of view on that.

Mr. PULEO. It is not usual that we disagree with the inspector general.

Mr. CONDIT. If I may just add on to Mr. Thomas' comments, in this so-called turf problem, if there is a problem, I think the mayor of El Paso in his testimony indicated his concern with the so-called turf problem. The GAO issued a report criticizing both agencies for engaging in rivalry, friction. Do you totally disagree with the mayor?

I don't know if you read the mayor's comments. He certainly will have the opportunity to make them public in a little bit. But at least in his written testimony it is there, it indicates there are some turf problems. Are there no turf problems?

Mr. PULEO. It has not been a smooth road. There have been a lot of bumps.

Mr. CONDIT. So there is a turf problem.

Mr. PULEO. There have been bumps in the road. I think what has come out quite evidently from the GAO report is that there has to be better cooperation between the two agencies. We have distinct missions between us: The inspections of persons and the inspection of goods and services. And we can do our job better, working cooperatively.

I think that is probably been the most important factor to come out of that GAO report. We have taken steps already. There are a lot more steps we can take and will take with the Customs Service.

Mr. CONDIT. I hate to speak for the mayor. I am sure he is capable of doing it himself. But in his testimony he talks about 50/50 commitment to staffing, and because that cannot be achieved, there are assignments that just don't get done because of the dispute, who is supposed to do it.

Would you comment on that situation? Is that correct?

Mr. PULEO. I mentioned the comment about resources being the major factor in the commitment of the 50/50. We do not have the same number of resources as the Customs Service. And we have been unable to fulfill our obligation under the 50/50.

We believe the additional resources will allow us to further comply with the 50/50 commitment we have with the Customs Service. But it does need to be looked at. It was a commitment made back in the late 1970's. It is something we haven't addressed. It was

pointed out by the GAO report, and we certainly will do that in the future, and are doing it right now.

Mr. CONDIT. Mr. Carnes.

Mr. CARNES. The only comment I can make, I haven't seen the mayor's statement. My boss, Mr. Winwood, not too long ago took a trip along the southern border and uniformly was advised that the delay issues and the staffing issues were significantly better than they have been in the past year or so.

Mr. CONDIT. Do you acknowledge there have been some gaps in assignments?

Mr. CARNES. I can't speak from personal knowledge that there are. There have been in the past, I am sure there may be in the future, because as Mr. Puleo said, we do have different areas of responsibility. We are dealing with human beings trying to manage a multitude of responsibilities, and sometimes there is friction.

Mr. CONDIT. I yield. I apologize for sort of interrupting there.

I will yield to Mrs. Thurman.

Mrs. THURMAN. That is OK, Mr. Chairman.

Mr. Puleo, it is my understanding that you have had about 3 years under the land border inspection fee legislation. Of course, it is coming up for sunset. Was there any time that you have looked at putting in a pilot program, or if not, why not?

Mr. PULEO. A pilot program where?

Mrs. THURMAN. To deal with the per person or per vehicle situation to see if there was a way to implement something like this.

Mr. PULEO. We did internally. We did look at it and discounted it because of the problems that we saw. The method of collecting the toll, the fact that, as I said, if a citizen came to the port of entry and didn't have the fee, once we establish their citizenship we can't by law currently impede their entry into the United States; the fact that our inspectors at land ports have to rotate every half hour because of the OSHA standards. We have strict guidelines for the disposition of fees collected, and the accounting of those funds, we are very concerned about that. And of course the modifications necessary for certain ports of entry.

For example, I mentioned San Ysidro. It butts up to homes. There is no way of expanding it laterally. So we were concerned about that.

So all our discussions revolved around those concerns. So we went forward with the dedicated commuter lane—where it is a process where an application is made, the process continues, and once you have got the decal you can make entries to the specified lane for that year.

Mrs. THURMAN. Has that program been self-supporting?

Mr. PULEO. Yes, it has.

Mrs. THURMAN. How about effects on local commerce? Has that had any impact at all?

Mr. PULEO. It has been quite dramatic to the positive side. We made a video recently where we had the mayor of Blaine, chief of police and a few others make comments. The mayor was talking about adding another fire truck or something and remarking how the malls were full because I guess it is cheaper to buy goods here in the United States than Canada. The chief of police's concern about potential for illegal entries seemed quite the contrary. So the

local community in Blaine is very pleased with the positive effects of the dedicated community.

Mrs. THURMAN. Both the House and the Senate have proposals to extend the land border inspection fee account pilot program for another 3 years. However, the Senate has inserted language to restrict the program only to the northern border. What is your position on this?

Mr. PULEO. There are certain considerations that have to be brought to bear with regard to the southern border. Our relationship with the Mexican Government, the potential for drugs coming across the southern border, are of concern to both the Customs Service and the INS. That is why we have looked at the other potential sites along the northern border. It seemed to be easier for us to implement there, especially in cooperation with the enforcement services of Canada.

When we take an application, we check all the indices and we screen it with the Canadian Government. We know more about the individual who applies for dedicated commuter lanes than we do anyone who comes across a port of entry, because we have the luxury of screening the application before we grant the benefit of being a dedicated commuter lane participant.

Mrs. THURMAN. Mr. Hankinson, based on his testimony, do you think that those problems are insurmountable?

Mr. HANKINSON. I think each and every problem that INS outlined to us are ones that need study. They are the ones that need special cooperation with other agencies. But I do not believe any of them are insurmountable.

Mrs. THURMAN. Ms. Hrinak, I would like to go back to statements within your testimony about treaties and agreements, because I think that is going to be a hot issue for this Congress to take up over the next couple of months.

Can you tell me where those existing agreements are or treaties that would have to be modified, and how difficult it would be to do that?

Ms. HRINAK. The Canadian Free Trade Agreement is in effect, of course, and if we chose to change the provisions of that which required us to treat United States and Canadian citizens alike in the imposition of fees, or if Canadians raised objections to our imposing an additional impediment to tourist services, to tourist crossings, we would have to address that issue in negotiations with them.

As Mr. Carnes has pointed out, there is a requirement under that treaty to consult with Canada if we are going to impose any additional Customs fees including on the movement of individuals. So those consultations would have to be undertaken.

We have no similar provision with Mexico, and those particular statements of the Canadian Free Trade Agreement are not included in the NAFTA agreement as negotiated. However, both NAFTA and the Canadian Free Trade Agreement do contain provisions regarding temporary entry of business persons that require that any fee charged to them would be strictly for the service provided in processing their applications.

So that provision would have to be addressed under both those treaties. I understand this might also have implications for our

services discussions in the Uruguay Round as well that are ongoing.

Mrs. THURMAN. Thank you.

Mr. CONDIT. Thank you.

Mr. HORN.

Mr. HORN. In your prepared statement it notes, "The parties recognize the application of fees or other charges on the departure or arrival of tourists in the territories impedes the free flow of tourism." That is from NAFTA 14.43. When such fees are imposed, they shall be applied in a manner consistent with article 14.02, limited in amount to the approximate cost of the service rendered.

The first definition comes on the approximate cost of service rendered. Do we mean the service on that particular individual crossing the border? Do we mean accumulation of all costs of all services on the border, divided by number of people that come across so can you pay for the actual cost but don't get the actual surplus on it?

Has there been experience as to similar language in any of your statutes or regulations, and how you interpreted it? Do we mean individual inspection? Do we mean just simply multiplying total cost by number of individuals and setting the fees accordingly?

Ms. HRINAK. There is not a provision of NAFTA. It is a provision of the United States-Canada Free Trade Agreement. This particular provision is not included in NAFTA.

Mr. HORN. So we don't have any provisions in NAFTA on it, we just have it on the Canadian?

Ms. HRINAK. That is correct.

Mr. HORN. But this would apply on the Canadian border, which also leaks like a sieve, we just don't think about it that much.

Ms. HRINAK. It would apply.

Mr. HORN. What is the approximate cost of service rendered? What do we mean by that?

Mr. PULEO. The fees we establish are individual fees on the applications for the benefits that would derive to the applicant. We attempt to associate all the costs with the adjudication of that application, officer time, clerical time, overhead, whatever. So the benefit would be to the applicant in petitioning or applying for any benefit under the Immigration Act.

Mr. HORN. So it wouldn't be unreasonable to look at a particular border, take the total cost of the administration on that border, and divide it by the expected number of people and say, "That is the fee we are going to set if we are going to have all of these services paid for by fees."

Mr. PULEO. It would be a method to look at. If the fees become unreasonable, then it goes past the point of diminishing returns. So you have to strike a reasonable balance between the total revenues gained and the cost for imposing that fee on the applicant or the entrant.

Mr. HORN. My understanding is the fee would apply to everyone crossing the border. In terms of reciprocity, because it is reciprocal, means simply that the potential for the other government to match that fee, the other government does not have to match that fee. Is that correct?

Ms. HRINAK. That is my understanding, yes, sir.

Mr. HORN. So the United States could impose the fee on the Mexican border and the Canadian border, and then it is simply up to the other government whether it wants a duplicate fee or half the fee or twice the fee based on whatever standard of law they apply.

Ms. HRINAK. Yes, sir.

Mr. HORN. So nothing precludes this from establishing this fee right now from Canada under that provision?

Ms. HRINAK. Mr. Carnes may want to address this directly, but there is a requirement for consultations with Canada under the free trade agreement.

Mr. HORN. We go in the room and consult, here is what we are planning to do; do you have any thoughts on it? I come from the university world and the faculties in consultation means you always have to agree with them. I assume that is not what diplomatic consultation means with the United States. You walk in the room and you don't always have to agree with your opponent across the table.

Ms. HRINAK. There is a traditional definition which says you make them see your way.

Mr. HORN. I would like to see more of that.

Mr. PULEO. If I may add, it also requires consultation in negotiations on the implementation issues. Ms. Hrinak mentioned the business travelers. There was an application fee of \$50, and it was immediately imposed by the other countries. So they did take advantage of the reciprocity, even as the free trade agreement was being implemented.

Mr. HORN. I think the obvious pressure to maintain lower fees is the interest of both countries and the economy of having American purchasing power cross the border. I doubt if the Mexican Government wants to discourage that. I would think they would dry up on border towns if Americans didn't go across the border.

And it is certainly not unreasonable to charge some fee, as we do in national parks, as we do in any number of places in the Federal Government, that would not be unreasonable. It would cover the cost of services.

Right now we are desperate to find money to properly police the border. The Mexican Government is giving us absolutely no help. And I don't think they have given us any help for the 18 years I have followed this subject.

Am I wrong on that? Do you see any help being given us?

Ms. HRINAK. At the binational commission meeting between us and the Mexican Government the end of June, the first question to the Mexican Foreign Secretary concerned illegal immigration, and he said very clearly in his response, Mexicans are free to go anywhere they wish. I will say we have had unprecedented cooperation with the Mexicans in controlling third country national immigration, illegal immigration.

Mr. HORN. The last I knew they pushed third country immigration all the way through Mexico to our border. Have they changed their policy on that?

Ms. HRINAK. They have changed their policy, sir. We have had for the last several years a policy of repatriation of third country nationals where we work with the Mexicans to ensure the individ-

uals do not have legitimate claims to political asylum and where the Mexican Government takes the responsibility for returning these intending illegal U.S. immigrants to the country.

Mr. HORN. So you are telling me the Mexican Government on its southern border returns El Salvadorans, Guatemalans, et cetera, that they have pushed through their country to our country for the past 20 years, suddenly they are stopped in the south and returning them?

Ms. HRINAK. They aren't necessarily stopped in the south. Wherever they are picked up in Mexico, they can be returned to their country through the repatriation program. But this does not apply to Mexican citizens or to certain categories of third country nationals, at our own request.

Mr. HORN. Do we know how many they have returned? It is a couple of dozen or a couple of hundred?

Ms. HRINAK. I think INS knows that better than we do.

Mr. PULEO. Unfortunately, I do not know the number. If I can also comment on the change, in the late 1980's, in southern Texas we were seeing an enormous amount of Salvadorian and Nicaraguans simply coming through the country. For a period of time, I can't remember if it was 3 or 6 months, we apprehended 15,000 Salvadorians and Nicaraguans.

In negotiations with the Mexicans, they did take a positive step of sealing their southern border. We have not seen those numbers since then.

Mr. HORN. What do we see now?

Mr. PULEO. Ninety-six percent of our apprehensions on the southern border are Mexicans. In fact, what we are seeing now is PRC's. Our PRC apprehensions have gone from 50 last year to 550 so far this year. But the third country repatriation program that Ms. Hrinak mentioned is working, and working to our benefit.

Mr. HORN. What does 4 percent of the traffic equal in terms of non-Mexicans coming across our border? I assume you are giving me the illegal and legal figure.

Mr. PULEO. Just illegal. It is running around 1.1 million for the fiscal year. So it would be around—and I think around 1 million for the southern border. So it would be about 4 percent of 1 million.

Mrs. THURMAN. Mr. Horn, if you will yield, can you tell me what the PRC is?

Mr. PULEO. I use too many acronyms. It is the People's Republic of China. I apologize.

Mrs. THURMAN. I thought a lot of other things.

Mr. HORN. As I read the testimony, you are saying the Department of State says there is no similar provision in the North American Free Trade Agreement with Mexico similar to the 1404 and 1402, in the Canadian agreement. Is that correct?

Ms. HRINAK. That is correct.

Mr. HORN. So nothing stops us from putting a fee on the border as far as a potential treaty is involved?

Ms. HRINAK. The only concern would be the one Mr. Puleo raised concerning business travelers, which is covered in the NAFTA as well.

Mr. HORN. And what does it say, basically?

Ms. HRINAK. It says that any fees that are charged for processing entry of business persons shall be charged specifically for the amount—to cover the service rendered.

Mr. HORN. Again, we get back to my question on definition. The service rendered to that particular individual businessman, the service rendered to them as a class at the border, et cetera. So it would seem to me people, if they want to solve the problem in the bureaucracy, and I don't say the administration, because I have been frustrated by every administration from Ford up on this, regardless of party, regardless of ideology, they have all dragged their feet.

The question is, if it is the career bureaucracy dragging their feet, let's solve it. The American people are getting very upset. And Members of Congress not on the borders are getting upset, and I will tell you why. A very simple reason. It suddenly dawned on them that every time we take a census, California gains congressional seats. We gain them because of illegal immigration. And my friends in Kentucky and Pennsylvania now realize that the next seat in the year 2000 might be mine. So suddenly we get \$60 million voted more for the Border Patrol. Believe me, that argument had its benefits on that vote.

Thank you, Mr. Chairman.

Mr. CONDIT. Does that wrap it up?

Mr. HORN. Except to say to Mr. Hankinson, if I had a chief executive, I would have an inspector general such as he is, because he is a positive thinker.

Mr. HANKINSON. Thank you.

Mr. CONDIT. Mr. Portman.

Mr. PORTMAN. Thank you.

I am from Ohio, one of the States like Kentucky and Illinois you mentioned, and I am concerned about illegal immigration. Ohio is a long way from the border, but the problem affects all of us, and I happen to have spent a couple of years working on the Select Commission on Immigration, and so have been familiar with these issues over the years.

My concern is with illegal immigration, I feel strongly that as we said back then 12 years ago, I guess, we need to shut the back door and leave the front door open; meaning legal immigration is not the problem, it is illegal immigration.

I notice Senator Feinstein promoted the notion of getting control of our illegal immigration so that legal immigration can continue and continue to add strength to this country, which I believe it does.

I was not here for all the testimony. I apologize if I am addressing an issue that has already been addressed in the testimony, but I would add a little different perspective to this and I guess ask a question of Mr. Puleo particularly.

Is it possible that this fee could in fact add to illegal immigration? Having spent some time on the southern border, I know that some of the traffic, legal and illegal, is people coming over to work, coming to shop. Some don't come through the inspection points, some do. If a fee is charged, wouldn't illegal entry increase?

Mr. PULEO. We thought that was one of the possibilities. When you look at the peasant who comes across and may make a total

of \$8 a day in maybe three to four trips, you now cut his profit for the day or his earnings for the day by the number of times he has to pay that fee. So it is a concern that, they will take what they consider the easy way out, and simply go around the port of entry. It may exacerbate the problem of illegal entry.

Mr. PORTMAN. Is that something that the State Department is concerned about?

Ms. HRINAK. I think it is a possibility. It does raise the larger issue of how you control illegal immigration overall.

Mr. PORTMAN. Is there any sense at all among any of the panelists that this fee would have any impact at all on illegal immigration, in a positive sense? Would it have any effect on our ability to control the border?

If the residual effect of it is that we have more officers and more inspectors, then the positive effect would be that we would be able to hopefully control, not eliminate, illegal immigration. More Border Patrol to patrol the border at illegal points, not inspectors at the legal points.

Mr. PULEO. No, you need both. You need a fair flow of traffic at the port of entry and enhancement of our ability to control at the port of entry. That is done between a combination of manpower and resources.

We are looking at enhancing, for example, our electronic capability to make each Border Patrol agent more effective in what they do. We do have a couple of ideas on the drawing board that are part of the President's initiative that is going to be sent up, where we can make each individual more effective.

So you would need both, at the port of entry and between the ports of entry.

Mr. PORTMAN. Changing subjects just to follow up on Mr. Horn's earlier question, you mentioned in your testimony, Mr. Puleo, that there is a possibility there may be bilateral treaties that would be violated by the imposition of a new fee for services, yet we already have our fee on air traffic, as you mentioned.

Is it your sense that there are specific bilateral treaties with specific countries that would be violated that would perhaps come into play since 1986 when we assessed the fee? What is the basis of your concern on bilateral treaties, or is there not one?

Mr. PULEO. Specifically with the Mexicans, Ms. Hrinak can correct me, but I believe there is an agreement that goes back to the early 1950's with the Mexican Government that precludes us from charging a fee on the border crossing card because a visa is still required of Mexicans, and in substitution of a visa the border crossing card is issued. For us to impose a fee on that would require a renegotiation of that treaty with Mexico. That is one of our concerns.

Mr. PORTMAN. Thank you.

Mr. CONDIT. Thank you.

Mr. Hankinson, how would INS fund the initial startup cost of implementing border fees collection program, paying for installation booths, building commuter lanes, et cetera?

Mr. HANKINSON. I believe some of the costs could be amortized. There may be some necessity for some appropriated funds to be

used originally. I think that would probably take care of the initial cost.

Mr. CONDIT. Your report indicates that revenues from the border toll could be used to pay border inspection services. Would it also be appropriate to pay Border Patrol activities?

Mr. HANKINSON. That is a real question and one which would have to, be I think, determined probably elsewhere within the Department of Justice and the Office of Legal Counsel. I think that is a real question.

I would say I see no prohibition from Congress enacting a law which would call for these funds to be used in this capacity. That would be no problem whatsoever. It is not a constitutional issue, as I see it.

Mr. CONDIT. The report states that INS does not have adequate cost data for the services it provides. Can you tell us what is missing?

Mr. HANKINSON. As a result of the Chief Financial Officers Act, we have an obligation to audit the financial statements relating to the fee accounts. And unfortunately for fiscal years 1991 and 1992, a "clean" audit, so to speak, could not be issued. The reasons were they have an inadequate accounting record, simply the records aren't—all the materials aren't—there, the bills, the payments, and so forth.

We also found that there are commingled funds. INS has fees for approximately 75 separate activities, I do believe. So we found that some of the funds were commingled in amongst each appropriated funds.

We also found that the timely recording of accrued liabilities was nonexistent. They lacked a systematic process to allocate the expenses. They were four of the major reasons.

Mr. CONDIT. Mr. Puleo, you are welcome to comment to that, if you would like.

Mr. PULEO. The comments on the deficiencies of the accounting system are accurate. We currently set the fees on best information we have, realizing it has to be enhanced. So we don't dispute that.

I do dispute the fact that we don't know—Mr. Hankinson mentioned the 75 fees. Each one of those fees is tied to an application. And the current system we have now tracks the application, the time, and the fee by the individual application rendered. So that part is inaccurate.

But obviously there are improvements that are necessary and as an agency we are working toward those.

Mr. CONDIT. You also indicated earlier you are working on a plan for some sort of fee structure. Can you share with the committee what kind of fees you are hoping to impose? Can you also give us some indication how much revenue they generate, and what time periods will these fees be implemented?

Mr. PULEO. As I mentioned, we believe under the current examinations fee account, we can simply by executing a regulation, impose fees for service, and those are services that currently provide free of charge. And they mainly deal with those who request an extra benefit for being in the United States, requiring to stay here longer, requiring to travel further in the country beyond simply the 25-mile zone and the 72 hours that is available to those who come

across the southern border, those who want to replace their border crossing card because they have lost it, not because of renewal, why they stay 6 months rather than simply the extra 30 days.

We are looking at an agreement with Canada that would allow freer flow along the border. And the current traffic, the number of applications we get, we estimate that will be around \$17.6 million annually.

The regulation is going through the process now within the Immigration Service. It should be out within 1 week or 2, to go through the OMB and then process and then publish it as a proposed rule.

Mr. CONDIT. What do you intend to use that revenue for?

Mr. PULEO. That would be inspection services.

Mr. CONDIT. You will reimburse the cost of inspection services?

Mr. PULEO. It will allow to us put more inspectors along the borders, we are estimating somewhere between 200 to 400 inspectors.

Mr. CONDIT. That is a small amount compared to what has been proposed this morning. How do you make up the difference?

Mr. PULEO. The difference is, as I said, there is a dispute on whether we have the legal authority or not. I mentioned that we do have the legal authority on the land border fee, but it sunsets in September. We don't believe we have the authority on the A-25, but we do believe we have the authority under the examinations fee account, because these are petitions for benefits and applications for benefits under the Immigration Act. So individuals asking for a benefit beyond simply entering the United States. And there is no one who disputes that we do currently have the legal authority to impose these fees.

Mr. CONDIT. Have you made any effort to gain legal authority on any of this information, any of this stuff at all?

Mr. PULEO. As I said in my statement, we are currently working within the administration to look at a per vehicle, per passenger fee to see if we should go forward with the recommendation or request.

Mr. CONDIT. Has INS been aggressive in asking for the legal authority from the administration or the Congress or anyone?

Mr. PULEO. It has been discussed for over 2 years but has never gotten beyond us and the Department of Justice.

Mr. HORN. When you are done, I have one question.

Mr. CONDIT. Is it related to what we are talking about?

Mr. HORN. It is related to a comment that was made, and I would like to pursue it.

Mr. CONDIT. I will yield to Mr. Horn.

Mr. HORN. That when an American citizen came back you could not deny entrance because they did not pay the fee. I understand that you can't deny entrance, but you also can bill them for the fee or you detain them until the fee is paid, is that not correct?

Mr. PULEO. If that is the method that would be used for a citizen, billing and either giving them a voucher and they would have to pay later, that would be the method, but we cannot detain them. Once we have established that they are not an alien, they are not excludable. Under the Immigration Act, we have no legal right to not allow them to enter the United States.

Mr. HORN. They can enter the United States but they don't leave the premises until they pay the fee, do they?

I mean, is this some new policy? It is terrific. I wish we would apply it. We will just walk past all government inspectors now with fees. Do I have a right to enter a national park? I am a citizen of the United States. I have got to pay a fee. So you have to pay a fee for services rendered.

Mr. PULEO. If a statute were passed that would require them to pay a fee as a requirement of entry, then we would have the ability. But currently we do not, under current statute, to detain them, or not allow them to enter.

Mr. CONDIT. Regaining my time, wouldn't you just simply issue a citation if someone refused to pay?

Mr. PULEO. That could be a method, certainly.

Mr. CONDIT. Mrs. Thurman.

Mrs. THURMAN. I need some clarification, because it is my understanding that the airlines charge a fee today for somebody to come into a country, I guess for both U.S. Customs and INS; is that correct? Is that a people fee?

Ms. HRINAK. That is an individual fee, yes. My understanding is it is included in your ticket charge per individual.

Mrs. THURMAN. So if we can get around it or if on the treaties that we have talked about here, why is it that we can't do it across the border on somebody coming in here either by foot or by another mode of transportation? I don't understand.

Ms. HRINAK. Jim, correct me if I get into INS territory, but I think the question is one of the service rendered. Is the benefit going to the individual or not? Clearly it has been determined in the case of the arrival by air, that individual has taken advantage of the service provided at the airport, the airport facility for his entry. And that has not yet been the determination for people crossing the border by land.

Mrs. THURMAN. So this goes back to the benefit issue, but I guess the benefit that Senator Feinstein actually referred to was the fact that they have roads to travel on or buses when they hit this country. So why wouldn't that be—I don't care, whoever wants to answer that question.

Mr. PULEO. Maybe a clarification on the fees. The airlines don't impose a fee; the U.S. Government does, because of statute.

Mrs. THURMAN. Better yet.

Mr. PULEO. By statute, and that is the difference. Also, there are three fees imposed. It is \$12, and it is \$5 for Customs, \$5 for INS, and \$2 for Agriculture. But the benefit, because of the statute, the benefit is now to the individual, not the Nation.

That is the difference on our dispute with the IG on who actually benefits from the—is it the Nation, because we preclude the legal entry and we allow those to enter who should be here, or is it the individual? And that was overcome by the user fee statute of 1987 on airports.

Mr. CARNES. I would like to further confuse you. The fees are not consistent, either. For the Customs fee, there is a statutory exemption for Canada, Mexico, and the adjacent islands, and Agriculture does not collect out of Canada.

Mrs. THURMAN. Is that because of the treaties, or is there other reasons?

Mr. CARNES. By statute.

Mrs. THURMAN. But that statute gave those exemptions because of some of the treaties and agreements, or just because we are nice guys?

Mr. CARNES. I think there were other considerations.

Mr. PULEO. If I may confuse you further, when the exemption was removed for Canada and adjacent islands, it was not removed for ships coming from the adjacent islands.

Mrs. THURMAN. Can anybody tell me why?

Mr. PULEO. It is the way the statute was written.

Mr. HORN. Who wrote it?

Mrs. THURMAN. Yes, who wrote it?

Mr. PULEO. Can I say you all wrote it? It was a statute that came out of Congress and that is the way it was written. We would prefer that it be clean, and if you remove the exemption, remove the exemptions. But the way the law came out from the Hill, it was exemption but, removal but.

Mrs. THURMAN. Did you testify before the committee that made the changes?

Mr. PULEO. I did not.

Mrs. THURMAN. Did any of you? Do you know of anybody in any of your agencies or departments that did?

Mr. PULEO. I am not aware of it.

Mrs. THURMAN. So it is just kind of there. OK.

Mr. Chairman, the last question that I want to ask, I find this all very interesting, is, do some of you believe that we can't do this and it probably wouldn't be a good idea. What do you suggest we do to have more money put into Border Patrol and do the things we are talking about without adding to the Federal deficit, which some of us are probably not willing to do at this point?

Mr. PULEO. It is a difficult question.

Mrs. THURMAN. Only when we are being asked to answer, but that is OK.

Mr. PULEO. Obviously, as I testified before, there is no way to totally seal up the border and provide all the services that we should without unlimited resources, and even if those were provided, it is doubtful we could seal the border up. And I think we have all said in our collective comments, this may be a way of looking at it, and it requires further review, because of the impact it will have not only on our personnel, and our respective agencies, but the infrastructure that would be required to be modified to allow the process to go forward. There is a lot of ways you can get around it; using electronic means.

So it is something I think we all have to sit down, both on our side and your side, to look at the possibility of if this is the desire of our country to impose this fee, how it is implemented. But unless you have very deep pockets, it is probably one of the possible solutions to this problem.

Mrs. THURMAN. So let me get this right. From the testimony that we have heard, you have not been a real big supporter of this concept, and we have asked the question, are there insurmountable problems in doing this, or would there be, and some have said no

and some have said yes, but what I am hearing you say is that, yes, there is a way to work this out.

Mr. PULEO. There is a lot of problems that have to be worked out before we impose it.

Mrs. THURMAN. But we can do that.

Mr. PULEO. I guess you can never say never.

Mr. CARNES. I just wanted to make clear also we are not saying that a fee can't be imposed. We are just saying there are a number of significant issues that need to be addressed and fully realize the implications of those before a final decision is made. That is really the bottom line.

Mrs. THURMAN. But not just written because it was written.

Mr. CONDIT. We want to thank you for being here this morning. You have done a great job, and we appreciate it. We may get back to you with some additional questions in writing.

Thank you very much.

We will now have panel 3. If we can ask panel 3 to stand so we can swear you in. Please raise your right hand.

[Witnesses sworn.]

Mr. CONDIT. Please be seated. Could we ask everyone in the audience to please be seated.

Since I have taken the liberty of paraphrasing the mayor's testimony, I am going to start with him and hope that I did it accurately.

We are delighted to have the honorable Larry Francis from El Paso, the mayor of El Paso.

Thank you, sir.

#### STATEMENT OF LARRY FRANCIS, MAYOR, EL PASO, TX

Mr. FRANCIS. Mr. Chairman, I want to thank you and the subcommittee members for having us here from El Paso. I should say me, representing our citizens. I think you have opened a real problem, you are looking at a real problem that I have lived with for years.

I want to thank you for the privilege of speaking to you today about our border cities, particularly El Paso and Juarez, Mexico. As the largest city on the border, on the Mexican border—and my friend from San Diego will take exception, but he is not on the border—El Paso and Juarez are an integrated community of almost 2 million people. They are projected to grow at about 1.5 percent a year for the next 10 years.

Let me cite two or three graphic descriptions of our community. We are separated only by a river, the Rio Grande. It is as if Kansas City, MO and Kansas City, KS were two countries, as if these cities had Customs officers, Immigration officials controlling their traffic flow between, let's say, Minneapolis and St. Paul, MN. I can go from my office in city hall to the city hall of Juarez in about 4 minutes, although because of bridge traffic, I cannot return that rapidly.

In the major sections of our central business district, 70 to 80 percent of retail sales come from our neighbors to the south. My dollars can be used freely in Juarez, and their pesos are accepted in almost all of our stores.

A suggestion under consideration by this committee is to impose a fee or assess a charge from people entering the United States from Mexico. This would be disastrous economically for our city and would create immigration problems like no one could describe.

Let me give you some examples. Four bridges link El Paso and Juarez. Those are owned by the city, which are three, and one by the Federal Government. Thirty-five million people cross these bridges each year. Seventy thousand, or 70 million cross them round trip. Of this figure, 5 million were pedestrians. These people are workers, professionals, depositors in our banks, tourists, et cetera.

Free trade between the United States and Mexico has already begun in advance of NAFTA. It has been for several years. If you go into the stores in Juarez you will find a large variety of U.S. products not available in those stores several years ago. This is an advance recognition of free trade by Mexico, because they have been lowering their tariffs.

The point is that people and goods are crossing the border daily in a flood tide. While legitimate, long-term immigration is a problem, we must recognize events as they are today.

First, NAFTA will provide more jobs inside Mexico, causing Mexican citizens to remain at home rather than move North. And that is a critical point. Mexico has no desire to export people. They would like to export products.

While we fear the loss of jobs in the United States, these jobs in all probability would leave in any event to Asia, Africa, or South America. The opening of the huge new market to our south for products and services will predominantly have new economic benefits for our country.

Second, to ignore this already increasing trade between the United States and Mexico is folly. Any attempt to unwisely restrict the flow of people between us will result in more problems, specifically a fee, any kind of fee, because Mexican nationals will cross the Rio Grande illegally, worsening our problem.

Over a broader view, any attempt to reduce the flow of people will have an economic impact on both countries. In the case of Mexico, it will initiate another economic downturn, another peso devaluation, and ultimately a massive new wave of illegal migration.

If your intent is to raise money, I would strongly suggest that you shift the focus to the commercial sector. As a border city, the trade coming north from Mexico and over the bridge in ever-increasing numbers is causing serious problems for your bridges and our streets. These vehicles are owned by Mexican companies.

And let me digress here. Almost all of the commercial trade from the maquiladoras is now carried by Mexican vehicles, and they are seriously overloaded. Your major bridge in El Paso, the Bridge of the Americas, has almost collapsed due to overweight. Our city streets are being destroyed at the same time.

As a border mayor, I suggest that fees and control on this commercial traffic need to be put in place to compensate for wear and tear now being borne by my taxpayers.

I must emphasize that traffic must flow as freely as possible. Another pressure relating to these bridges are the lack of Customs and Immigration agents to man the gates to these bridges.

Apparently there is a long-standing turf war in which Immigration and Customs have found some formula by each man's position on these bridges or entry ports. If one agency cannot meet its requirement on a particular day, the other agency will limit its personnel so that its formula remains intact.

Many days we have agents sitting inside rest areas doing nothing because the other agency does not have the manpower to fulfill the formula. What does this mean to those of us on both sides of the border?

First, we have incredibly long lines of up to 2 hours to come from south to north. Second, we have vehicles inching forward for 2 hours emitting huge volumes of hydrocarbons such that the air shed over our two cities is one of the worst in the United States. We cannot comply with Clean Air Act, period. We are faced with huge sanctions by our Federal Government who refuse to meet the needs of reality. While vehicles halting on the bridge is not the only cause of our air quality problems, it is certainly a major one.

This is a dramatic case of one agency imposing significant new standards and another agency helping us to fail to meet these standards. Another issue is safety and security on the bridge itself. The Bridge of the Americas is a no man's land without adequate security whatsoever. The Federal Government is not providing adequate security on the bridge. We have violence continually on the bridges because they are international territory. The Federal Government must provide full-time protection.

I digress: Last week we had a young man, 20 years old, shot in the head on the bridge. We have something like that about once a month.

Let me conclude by saying the border cities are acting as a buffer for the interior of the United States. Realistic solutions are needed to solve our problems. We are attempting to hold the line on a number of serious problems from illegal immigration to drugs.

The impact on our meager budgets is immense. In the case of El Paso, about 20 percent of my budget is absorbed by this illegal migration. This covers crime, education, medical services, housing, and recreational facilities. If we are overwhelmed, this problem will spread northward like ripples on a pond.

I would like to ask for your consideration for several simple solutions or with several simple solutions. Give the border city some of the fees and duties collected by the Federal Government because we provide infrastructure at entry points. We cannot continue to do this out of our local pockets.

Recognize and coordinate the various agencies and laws. Get realistic about turf wars between agencies. Understand that Justice is defeating our attempts to comply with EPA.

Do not attempt to impose fees on individuals, but do consider faster, more efficient commercial traffic structure, place fees, and new enforcement here, but do so with the promise that traffic will speed up. Accept reality of the situation as it is, as it will be and listen to those of us who must listen to these problems every day.

I want to thank you for your time and patience. I will be happy to answer any questions.

[The prepared statement of Mr. Francis follows:]

LARRY FRANCIS  
MAYOR  
KENNETH E. BEASLEY  
CHIEF ADMINISTRATIVE OFFICER  
MARK ANDREW SMITH  
EXECUTIVE ASSISTANT TO THE MAYOR



U.S. HOUSE OF REPRESENTATIVES  
Information, Justice, Transportation and Agriculture  
Subcommittee  
of the  
Committee on Government Operations

**CITY COUNCIL**  
GENE FINKE  
DISTRICT NO. 1  
JESUS TERRAZAS, JR.  
DISTRICT NO. 2  
CHALIO ACOSTA  
DISTRICT NO. 3  
STAN ROBERTS  
DISTRICT NO. 4  
C. DUSTY RHODES  
DISTRICT NO. 5  
BARBARA PEREZ  
DISTRICT NO. 6  
IGNACIO PADILLA  
DISTRICT NO. 7  
RAYMOND R. TELLES  
DISTRICT NO. 8

Testimony of: Larry Francis, Mayor, City of El Paso, Texas  
Tuesday, August 3, 1993

Members of the Committee

I want to thank you for the privilege of speaking to you today about our border cities particularly El Paso, Texas & Juarez, Mexico.

As the largest cities on the Mexican border, El Paso and Juarez are an integrated community of almost 2 million people. They are projected to grow about 1.5 percent per year for the next ten years.

Let me cite two or three graphic descriptions of our community. We are separated by only a river-- the Rio Grande. It is as if Kansas City, Missouri and Kansas City, Kansas were in two countries. As if these cities had Customs officers, and Immigration officials controlling the traffic flow between Minneapolis and St. Paul, Minnesota.

Page 1 of 7

## Francis Testimony

I can go from my office to the City Hall of Juarez in four minutes, although I can't return nearly that rapidly. In major sections of our central business district, 70% to 80% of the retail sales come from our neighbors across the river. My dollars can be used freely everywhere in Juarez; and most stores in El Paso accept pesos without a question.

Francis Testimony

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A suggestion is under consideration by this committee to impose a fee or assess a charge from people entering the United States from Mexico. This would be disastrous economically for our city and would create immigration problems like no one has ever described to you. Let me give you some examples.

Four bridges link El Paso and Juarez, those owned by the City and one by the Federal Government. Thirty-five million people crossed these bridges last year (70,000,000 crossings-round trip)! Of this figure, 5,000,000 were pedestrians. These people are workers, professional managers, depositor for our banks and tourists.

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While legitimate long term immigration is a problem we must recognize events as they are today.

## Francis Testimony

First NAFTA will provide more jobs inside Mexico causing Mexican citizens to remain at home rather than move north. Mexico has no desire to export people only products. While we fear the loss of jobs in the United States, these jobs would in all probability leave in any event to Asia, Africa or to South America. The opening of a huge new market to our south for products and services in which we are predominant will be a huge new economic boom for our country.

Secondly to ignore this already increasing trade between Mexico and the United States is folly. Any attempt to unwisely restrict the flow of people between us will result in more problems. Specifically a fee, any kind of fee, will cause Mexican Nationals to cross the Rio Grande illegally worsening our problems. Over a broader view any attempt to reduce the flow of people will have an economic impact on both countries. In the case of Mexico, it will initiate another economic downturn, another peso devaluation and ultimately a new massive illegal immigration north.

If your intent is to raise money, I would strongly suggest that you shift the focus to the commercial sector. As a border city the trade coming north from Mexico and over the bridges in ever increasing numbers are causing serious problems for your bridges and our streets. These vehicles are owned by Mexican companies and are seriously overloaded. Your major bridge in El Paso, the Bridge of the Americas, has almost collapsed due to overweight vehicles. Our city streets are being destroyed in the same manner.

## Francis Testimony

As a border Mayor, I suggest that fees and control on this commercial traffic need to be put in place to compensate for wear and tear now being borne by citizen tax payers. I must emphasize that the traffic must flow as freely and quickly as possible but we must have compensation from the source of the problem.

Another pressure relating to the bridges are the lack of Customs and Immigration agents to man the gates for these bridges. Apparently there is a long standing turf war in which Immigration and Customs have some formula by which each mans a certain number of positions on these bridges or entry ports. If one agency cannot meet its requirement on a particular day, the other agency will limit its personnel so that the formula remains intact. Many days we have agents from one agency setting inside a rest area doing nothing because the other agency does not have enough man power to fulfill the formula. What does this mean to those of us on both sides of the border?

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## Francis Testimony

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Let me conclude by saying that the Border Cities are acting as a buffer for the interior of the United States. Realistic solutions are needed to solve our problems. We are attempting to hold the line on a number of serious problems from illegal immigration to drugs. The impact on our meager budgets is immense. In the case of El Paso about 20% of our budget is absorbed by this illegal migration. This covers crime, education, medical services and recreational facilities.

If we are overwhelmed this problem will spread northward like ripples in a pond. I would like to ask for your consideration of other simple solutions.

1. Give the border cities some of the fees and duties collected by the Federal Government because we provide the infrastructure at the entry points. We cannot continue to do this out of our local pockets any longer.
2. Recognize and coordinate the various agencies and laws. Get realistic about the turf wars between agencies. Understand that Justice is defeating our attempts to comply with EPA.

## Francis Testimony

3. Do not attempt to impose fees on individuals but do consider a faster more efficient commercial traffic structure. Place fees and new enforcement here but do so with the promise that traffic will speed up.
4. Accept reality of the situation as it is, as it will be and listen to those of us who must desperately work on these problems every day.

Thank you for your time and patience. It means a great deal that this body would take the time to listen to those of us far away on the border.

Mr. CONDIT. Thank you very much for being here today. Your attendance here today and your testimony adds balance. We appreciate your being here today. We will have questions for you later, if will you stick around a little bit.

Mr. Schwebel, the chairman of the Border Trade Alliance.

### **STATEMENT OF GERALD SCHWEBEL, CHAIRMAN, BORDER TRADE ALLIANCE**

Mr. SCHWEBEL. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, thank you for allowing me to appear before you today to address one of the most important issues that confronts each and every one of us who lives and works along the southern border of the United States.

As you are probably aware, the southwest border area has been in the trade business since Coronado came to this area over 450 years ago in search of the Seven Cities of Gold. Trade has flowed north and south along the established trade routes since that time, and has increased over the years to where the trade volume between the United States and Mexico exceeded the \$40.6 billion last year.

All along the border between these two great countries communities have developed and prospered by assisting in legitimate trade activities. The Border Trade Alliance represents those businesses and individuals as well as many other chambers of commerce and economic and industrial development councils.

We have been concerned about issues we believe could negate or detract from the benefits that the North American Free Trade Agreement could bring to the southwest border region. I wish to focus on the possible impact user fees could have on our region.

I am aware there is much discussion of imposing a border transaction tax or fee to deal with the environment or infrastructure demands that free trade will bring to our region. On top of this fee, the Immigration and Naturalization Service is looking into ways of implementing transaction or user fees for persons crossing into or seeking admittance into the United States. These fees range from dedicated commuter lanes to crossing fees for individuals entering our country to our land border ports to documentation fees for processing the applications for those people who seek access to our country, for business or tourist purposes.

Most recently, we have been following Senator Diane Feinstein's six-point immigration plan which calls for the collection of \$1 or \$2 per person seeking to enter the United States at our land border points of entry. Based upon those INS figures of 476 million land border inspections in fiscal year 1992, this fee would generate from \$500 million to \$1 billion annually. I understand these fees would be used to increase Border Patrol staffing and surveillance equipment and does deter the illegal immigration into our country.

The Border Trade Alliance adamantly opposes cross border transaction user fees as outlined in Senator Feinstein's proposal, and we also oppose the idea of a dedicated commuter lane.

The prevailing school of thought for opposition to the user fees is that the very idea of their imposition is diametrically opposed to the current effort for the North American Free Trade Agreement,

the NAFTA, in that is to better facilitate trade between the signatory countries.

The transborder industry is burdened with a multitude of taxes, fees, and tolls and perceives the proposed user fees as just another form of taxation with little benefit to those who pay it. In actuality, it becomes a nontariff barrier to trade.

With bridge crossing tolls already levied at many points along our border, the additional fees could render the crossing simply too expensive for its users and lead to fewer crossings and especially burdensome for people who cross the border multiple times each day. Reduced crossings in turn leads to reduced trade and a decline in commerce and economic well-being for communities along the border.

With our border communities' economies so closely tied to trade, we believe a border transaction tax could make border communities less competitive in attracting industries into our region. Already we have difficulty in competing with the Pacific Rim based on cost of doing business. This user fee or tax only increases this cost more. Our retail industry, which is the largest generator of jobs along our border, would suffer with this additional cross-border tax.

It is unrealistic to believe that only the U.S. Government would levy a fee on cross-border traffic. History has shown that Mexico can and will assess user fees equal to or higher than those assessed by the United States. In fact, today's border bridge fares are almost twice as much as those in the United States at \$1.25 versus \$2 per crossing in Laredo, TX, and Nuevo Laredo, Tamaulipas, Mexico. These additional user fees or taxes being implemented on both sides of the border do not help in the development of our border regions into economically stable and self-supporting areas. Trade and cross-border activity is not a bottomless pit waiting for the tax collector because this is a tax.

While Senator Feinstein's six strategies, if successfully implemented, could eliminate billions of dollars of costs to Federal and State governments having to deal with illegal immigrants, it is unfair to expect border communities to bear the burden of these additional costs through user fees adversely affecting our economies, for the benefit of all. The cost of this program should be shared by all citizens since all would ultimately benefit. Please keep in mind that the revenue generated through ports of entry through customs duties or user fees is much higher than what is allocated for ports of entry staffing and operations.

The Border Trade Alliance has proposed that our ports of entry be managed by one government agency instead of the dual management system that now exists. The U.S. General Accounting Office recently published a study in June of this year and came to the conclusion that the dual management structure for border inspections should be eliminated. We believe that the savings in effectively managing our ports of entry could help to pay for the additional Border Patrol agents Senator Feinstein is looking for.

The potential benefits of the unified port management concept are: The changes gives us an opportunity to employ new management techniques.

Establishes primary clearance and management accountability for border inspection in a single agency.

- Eliminates the overlap and duplication of effort.

- Prevents the development of redundant support systems and reduces paperwork where possible.

- Enhances the development of a coherent border policy.

- Improves utilization of resources and personnel.

- Improves the enforcement of our laws at our borders.

- Allows for smooth implementation of innovative inspection processes.

These benefits could be realized by charging U.S. Customs with the responsibility for primary inspections at our ports of entry. INS would continue to conduct all secondary inspections related to the admissibility of persons. All personnel and resources made available to INS by this redefinition of responsibilities between Customs and INS should be applied by INS to execute its order statutory missions, including the enhancement of Border Patrol operations as well as the education and enforcement of businesses, and the ramifications of employer sanctions. Only through the concentrated efforts of educating businesses and enforcing employer sanctions, will we as a Nation be able to protect jobs in our country for legal residents or legal immigrants with proper documentation.

As I stated earlier, the BTA opposes any financing mechanism which places a disproportionate burden of cost on users or industry—wherein these costs are detrimental to trade and erode the industrial competitiveness of American industry. Although we may be willing to consider a judicious application of certain funding mechanisms for public good investments, such as infrastructure, we remain firm in our belief that past applications of “user fees” have failed to provide the benefits originally intended. Our argument is that once user fees are imposed, they are seldom reduced or eliminated and in the process impact negatively the economic development of our region and our Nation. That is why we believe “user fees” go against the spirit of competitiveness and fair trade.

I would like to close by stating that a time when walls are coming down around the world dedicated to enhance global competitiveness, today is not the time for the United States to build its own wall between our two largest trading partners—Canada and Mexico. Thank you.

Thank you, Mr. Chairman. I thank you for the opportunity to come forward.

Mr. CONDIT. Thank you very much.

[The prepared statement of Mr. Schwebel follows:]

TESTIMONY  
OF  
GERALD SCHWEBEL  
CHAIRMAN  
BORDER TRADE ALLIANCE

BEFORE THE  
INFORMATION, JUSTICE, TRANSPORTATION AND AGRICULTURE  
SUBCOMMITTEE  
OF THE  
COMMITTEE ON GOVERNMENT OPERATIONS  
UNITED STATES HOUSE OF REPRESENTATIVES

AUGUST 3, 1993

Mr. Chairman and members of the committee, thank you for allowing me to appear before you today to address one of the most important issues that confronts each and every one of us who lives and works along the southern border of the United States.

As you are probably aware, or can well imagine, the Southwest border area has been in the trade business since Coronado came through this area over 450 years ago in search of the Seven Cities of Gold. Trade has flowed North and South along the established trade routes since that time and has increased over the years to where the trade volume between the United States and Mexico exceeded \$40.5 billion dollars last year. All along the border between these two great countries, communities have developed and prospered by assisting in legitimate trade activities. The Border Trade Alliance (BTA) represents many of these businesses and individuals as well as many other border communities' Chambers of Commerce and Economic and Industrial Development Councils.

We have been concerned about issues we believe could negate or detract from the benefits we visualize the North American Free Trade Agreement could bring to the Southwest Border region and, in particular, now I wish to focus specifically on the possible impact "user fees" could have on our region.

I am aware that there is much discussion of imposing a Border Transaction Tax or Fee to deal with the environment and infrastructure demands that free trade will bring to our region. On top of this fee, the Immigration and Naturalization Service (INS) is looking into ways of implementing transaction or user fees for persons crossing into or seeking admittance into the United States. These fees range from dedicated commuter lanes which charge an annual fee for access, to crossing fees for individuals entering our country through our land border ports, to documentation fees for processing the applications for those people who seek access to our country for business or tourist purposes.

Most recently, we have been following Sen. Dianne Feinstein's six-point immigration plan which calls for the collection of one or two dollars per person seeking to enter the United States at our land border ports of entry. Based upon INS figures of 475 million land border inspections in fiscal year 1992, this fee would generate from \$500 million to \$1 billion annually. I understand these funds would be used to increase Border Patrol staffing and surveillance equipment and thus deter the illegal immigration into our country.

The Border Trade Alliance adamantly opposes a cross border transaction user fee as outlined in Sen. Feinstein's proposal and we also oppose the idea of a dedicated commuter lane (currently

being tested in Blaine, Washington). The prevailing school of thought for opposition to the user fees is that the very idea of their imposition is diametrically opposed to the current efforts for the North American Free Trade (NAFTA); in that NAFTA is to better facilitate trade between the signatory countries. The transborder industry is already burdened with a multitude of taxes, fees, and tolls and perceives the proposed user fees as just another form of taxation with little benefit to those who pay it. In actuality, it becomes a non-tariff barrier to trade.

With bridge crossing tolls already levied at many points along our border, the additional fees could render the crossing simply too expensive for its users and lead to fewer crossings and especially burdensome for people who cross the border multiple times each day. Reduced crossings in turn leads to reduced trade and a decline in commerce and economic well being for communities along the border. With our border communities' economies so closely tied to trade, we believe a border transaction tax could make border communities less competitive in attracting industries into our region. Already we have difficulty in competing with the Pacific Rim based on cost of doing business. This user fee or tax only increases this cost more. Our retail industry, which is the largest generator of jobs along our border, would suffer with this additional cross-border tax.

It is unrealistic to believe that only the United States government would levy a fee on cross-border traffic. History has shown that Mexico can and will assess user fees equal to or higher than those assessed by the United States. In fact, today's border bridge fares are almost twice as much as those in the U.S. at \$1.25 vs. \$2.00 per crossing in Laredo, Texas and Nuevo Laredo, Tamaulipas, Mexico. These additional user fees or taxes being implemented on both sides of the border do not help in the development of our border regions into economically stable and self supporting areas. Trade and cross-border activity is not a bottomless pit waiting for the tax collector because this is a tax.

While Senator Feinstein's six strategies, if successfully implemented, could eliminate billions of dollars of costs to federal and state governments having to deal with illegal immigrants, it is unfair to expect border communities to bear the burden of these additional costs through user fees, adversely affecting our economies, for the benefit of all. The cost of this program should be shared by all citizens since all would ultimately benefit. Please keep in mind that the revenue generated through our land ports of entry through customs duties or user fees is much higher than what is allocated for ports of entry staffing and operations.

The Border Trade Alliance has proposed that our ports of entry be managed by one government agency instead of the dual management system that now exists. The United States General Accounting Office recently published a study (GAO/GGD-93-111) in June of this year and came to the conclusion that the dual management structure for border inspections should be eliminated. We believe that the savings in effectively managing our ports of entry could help to pay for the additional Border Patrol agents Senator Feinstein is looking for. The potential benefits of the Unified Port Management concept are:

- \* The changes gives us an opportunity to employ new management techniques.
- \* Establishes primary clearance and management accountability for border inspection in a single agency.
- \* Eliminates the overlap and duplication of effort.
- \* Prevents the development of redundant support systems and reduces paperwork where possible.
- \* Enhances the development of a coherent border policy.
- \* Improves utilization of resources and personnel.
- \* Improves the enforcement of our laws at our borders.
- \* Allows for smooth implementation of innovative inspection processes.

These benefits could be realized by charging U.S. Customs with the responsibility for Primary inspections at our ports of entry. INS would continue to conduct all secondary inspections related to

the admissibility of persons. All personnel and resources made available to INS by this redefinition of responsibilities between customs and INS should be applied by INS to execute its other statutory missions, including the enhancement of border patrol operations as well as the education and enforcement of businesses, and the ramifications of employer sanctions. Only through the concentrated efforts of educating businesses and enforcing employer sanctions, will we as a nation be able to protect jobs in our country for legal residents or legal immigrants with proper documentation.

As I stated earlier, the BTA opposes any financing mechanism which places a disproportionate burden of cost on users or industry--wherein these costs are detrimental to trade and erode the industrial competitiveness of American industry. Although we may be willing to consider a judicious application of certain funding mechanisms for public good investments, such as infrastructure, we remain firm in our belief that past applications of "user fees" have failed to provide the benefits originally intended. Our argument is that once user fees are imposed, they are seldom reduced or eliminated and in the process impact negatively the economic development of our region and our nation. That is why we believe "user fees" go against the spirit of competitiveness and fair trade.

I would like to close by stating that at a time when walls are coming down around the world dedicated to enhance global competitiveness, today is not the time for the United States to build its own wall between our two largest trading partners--Canada and Mexico.

Thank you.

# BTA

## BORDER TRADE ALLIANCE

GERALD SCHWEBEL

GERALD SCHWEBEL IS A SENIOR VICE PRESIDENT OF THE INTERNATIONAL DEPARTMENT OF THE INTERNATIONAL BANK OF COMMERCE (IBC) IN LAREDO, TEXAS. IBC IS THE LARGEST BANK HEADQUARTERED ALONG THE UNITED STATES-MEXICO BORDER WITH TWENTY SEVEN LOCATIONS THROUGHOUT SOUTH TEXAS.

PRIOR TO JOINING IBC HE HEADED THE INTERNATIONAL DEPARTMENT OF ANOTHER FINANCIAL INSTITUTION IN LAREDO AND SAN ANTONIO AND ALSO HELD ADMINISTRATIVE POSITIONS WITH LAREDO STATE UNIVERSITY.

ON OCTOBER 1992 MR. SCHWEBEL WAS SELECTED AS CHAIRMAN OF THE BORDER TRADE ALLIANCE (BTA), A GRASS-ROOTS ALLIANCE OF UNITED STATES/MEXICO BORDER ORGANIZATIONS FROM SAN DIEGO, CALIFORNIA TO BROWNSVILLE, TEXAS WHO ADVOCATE THE INTERESTS OF "THE BORDER".

FOUNDED IN 1986, THE BTA OPERATES AS A NETWORK OF ECONOMIC DEVELOPMENT CORPORATIONS, CHAMBERS OF COMMERCE, TRADE ASSOCIATIONS, BANKS, INDUSTRIAL PARKS, SERVICE PROVIDERS, MANUFACTURERS, AND STATE AND LOCAL GOVERNMENTAL AGENCIES TO WORK TOWARDS EDUCATING, BUILDING CONSENSUS AND SOLVING PROBLEMS. ITS POLICY OBJECTIVES INCLUDE THE IMPROVEMENT OF THE MEANS OF COMMERCE BETWEEN THE UNITED STATES AND MEXICO, THE DEVELOPMENT OF NECESSARY RESOURCES FOR BORDER ECONOMIC GROWTH, AND THE ADVOCACY OF PRIVATE AND PUBLIC SECTOR BORDER INTERESTS IN THE REGULATORY AND LEGISLATIVE PROCESS.

MR. SCHWEBEL EARNED HIS UNDERGRADUATE DEGREE IN POLITICAL SCIENCE AND PSYCHOLOGY FROM TEXAS A & I UNIVERSITY AT LAREDO AND HAS DONE GRADUATE WORK IN THE FIELDS OF INTERNATIONAL TRADE AND BANKING AT LAREDO STATE UNIVERSITY, UNIVERSITY OF TEXAS AND THE STONIER GRADUATE SCHOOL OF BANKING AT THE UNIVERSITY OF DELAWARE.

HE IS THE RECIPIENT OF NUMEROUS CIVIC AND PROFESSIONAL AWARDS AND RECOGNITIONS, BOTH IN THE UNITED STATES AND MEXICO FOR HIS PROMOTION OF TRADE RELATIONS BETWEEN THE UNITED STATES AND MEXICO AND THE ECONOMIC DEVELOPMENT OF SOUTH TEXAS.

MR. SCHWEBEL SERVES ON THE BOARD OF DIRECTORS OF THE LAREDO DEVELOPMENT FOUNDATION, LAREDO CHAMBER OF COMMERCE, LAREDO MANUFACTURERS ASSOCIATION, JUNIOR ACHIEVEMENT OF LAREDO, UNITED WAY OF LAREDO AND THE INTERNATIONAL GOOD NEIGHBOR COUNCIL.

MOST RECENTLY, MR. SCHWEBEL HAS BEEN DIRECTLY INVOLVED IN THE PROMOTION OF THE NORTH AMERICAN FREE TRADE AGREEMENT WITH MEXICO AND CANADA THROUGH HIS INVOLVEMENT IN THE BTA AND THE "USA-NAFTA" (FORMERLY KNOWN AS THE COALITION FOR FREE TRADE). MR. SCHWEBEL HAS RECENTLY BEEN APPOINTED TO THE REGION VI-SAN ANTONIO ADVISORY COUNCIL OF THE SMALL BUSINESS ADMINISTRATION.

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Mr. CONDIT. Mr. Stein, thank you very much for being here today. You have done very well by us. You come when we call you. Mr. Stein is the executive director of the Federation for American Immigration Reform.

**STATEMENT OF DANIEL STEIN, EXECUTIVE DIRECTOR,  
FEDERATION FOR AMERICAN IMMIGRATION REFORM**

Mr. STEIN. Thank you, Mr. Chairman. We applaud your leadership on what we think is an important and timely proposal.

The federation represents 50,000 citizens who want to work to try to stop illegal immigration, among other things. We are fully supportive to Senator Feinstein's proposal to charge border crossing fees as she outlined in her testimony this morning.

We conducted polls in Texas and California in 1990 to find out what the public support was for a border crossing toll, if it would improve the effectiveness of inspections. We found the response in favor of it was above 85 percent and the support increased as people lived closer to the border.

We know of no econometric evidence demonstrating a negative effect on cross border commerce. In fact, most people view the imposition of infrastructure-related fees as facilitating commerce, improving legitimate commerce flow through border fees or tolls or various types. It's an idea as old as Coronado himself. In fact, there is an island called Coronado off San Diego where you have to pay a \$1 fee to get on the island.

In Manhattan there is a crossing fee and I am not aware that there has been a lessening of people coming to Manhattan. The people in Manhattan probably wish there would be.

There is a lot of econometric evidence that suggests the free trade agreement would increase illegal immigration for the first 10 or 15 years of its implementation. This relates to dislocations which would occur in certain labor markets in northeastern Mexico.

We believe it is incumbent upon the administration to propose effective measures of this nature that would get control of the borders before the full implementation of the that agreement.

There have been a couple of arguments that have been put forward against the border fee. Only two seem to merit a response. The first argument would be that it would adversely affect workers who commute to jobs in the United States but live in Mexico.

The economic benefit of access to cheap labor has obviously accrued to the border communities, yet the costs are falling on State and local taxpayers in States such as Texas, Florida, New York, and many others. The problem is growing. It is simply not fair for those communities to seek to try to enjoy the economic benefits of the cheap labor south of the border while not paying some of the costs for the maintenance of that infrastructure.

Moreover, there is, in our view, ample evidence that the main reason why the border communities are concerned about this proposal is not that the imposition of the dollar fee would cause economic problems, but rather the concern that the Mexican Government would retaliate with tolls or fees that would be punitive by our standards.

Nevertheless, for those Mexicans who are commuting into the United States, most workers in the United States already have to

pay certain costs of commuting and working. Commuter aliens are actually lawful permanent residents of the United States who have been given a special dispensation to live in a neighboring country.

In the case of those living in Mexico, their wages are earned in the U.S. economy while their living costs are those of the Mexico economy. The advantage gained through this arrangement is sufficient offset to provide them the means to pay for the inspection process they use every workday. We also recommend a discounted fee system, however, to ease the impact on regular crossers.

The second argument is that a fee would have an adverse impact on border commerce. The opposite is certainly true. Coded decals, as I described, would certainly ease the frustration and long waits that occur now. Elimination of those long lines and waits would allow more shoppers to enter the United States and bring much more business activity to border businesses. In Canada they love the ability to move through that express lane and the visitors love the fact that people who have money to spend can move through the borders quickly and efficiently.

A model pilot project, the specifics of how we would propose it be implemented are laid out in the testimony. I will not repeat them, but I encourage you to read them.

Obviously, you have to vary your approach based on the port of entry; 80 to 85 percent of the illegal crossings occur along three spots on the southern borders, El Paso, Juarez, and Chula Vista. You have to have several factors in common, a major port of entry with development right up around that port of entry and a major artery moving into the United States. Most of the southern border is mountains and desert, and while you would not want to seal the entire southern border, large scale crossings cannot occur on most parts of the southern border. Therefore, it is a matter of providing \$700 or \$800 million along the southern border to get control over most of the illegal points of entry.

We originally recommended a \$3 fee. Since the original agreement with Mexico was negotiated in the 1950's where we guaranteed not to provide a crossing fee, we also absorbed something in the order of 4 to 5 million Mexican workers who have come here illegally. We gave 3.5 million amnesty in 1986. Many of their relatives are coming behind them, we're absorbing perhaps 20 percent of the growth of the Mexican labor force every year.

There is ample reason why the Mexican Government should go ahead and renegotiate these agreements so that a nominal fee can be imposed particularly for the issuance of border crossing cards.

We believe the time has come for this proposal. We think the public is ready. Most citizens certainly are prepared to accept this kind of responsibility. There is no evidence that the public is unwilling to accept it.

In Blaine, WA, you could provide an optional free lane for U.S. citizens only. There are a lot of ways to get around the problems. Certainly the objections raised by the administration panel were not of any serious significance that I would understand as an impediment. So we suggest that the committee move forward with this suggestion as soon as possible. Thank you.

[The prepared statement of Mr. Stein follows:]

Testimony

of

Dan Stein

The Federation for American Immigration Reform

before

The Information, Justice, Transportation and Agricultural Subcommittee

of

The Government Operations Committee

of

The House of Representatives

August 3, 1993

Mr. Chairman, members of the subcommittee, my name is Dan Stein, and I am Executive Director of the Federation for American Immigration Reform (FAIR). FAIR is a national non-profit, public interest organization working to end illegal immigration and to establish levels of legal immigration consistent with population stabilization in America. FAIR, as a matter of policy, advocates a moratorium on most legal immigration to give the nation and Congress an opportunity to assess the effects of recent immigration, legal and illegal, while establishing a sound immigration policy after considering the purpose and objectives of such policy.

Thank you, Mr. Chairman, for the invitation and opportunity to appear before this subcommittee today. We appreciate your leadership and interest in seeking creative solutions to very thorny problems facing our nation and this Congress.

#### **The Immigration Crisis -- The Need for Additional Funding Is an Urgent Priority**

Crisis is a word we hear too often these days. But crisis is the only way we can describe what is happening at our nation's borders. The United States also faces another, competing fiscal problem -- an intractable deficit. The crisis at our borders has happened because of a steady growth of people desiring to come to this country to visit, live and work, while resources necessary to meet the demand were allowed to fall far behind.

Unfortunately, we have been falling behind in our abilities to protect our borders for at least the last quarter century. Although personnel and facilities at the borders have increased over this time, the modest increases have not kept up with the enormous growth of legal and illegal trans-border traffic. Now, we face urgent calls for action -- for additional manpower and other resources at the border. Recent terrorist incidents suggest that our national security and the safety of the public is at risk. The public wants better control over illegal immigration, and better inspections at the border.

The question is where to find the additional money.

### **Border Fees Are a Logical Step**

In times past, when this country has been faced with seemingly irreconcilable dilemmas, it has come up with unique and imaginative new ways of doing business to solve them. FAIR proposes we go back to the old American tradition and come up with a new way of doing business. We think we can improve our border security without detracting from the debt reduction that is essential to resolving the fiscal crisis.

Recognizing, in recent years, that it has become increasingly difficult, if not impossible, for the INS and other border agencies to keep up an effective inspection and enforcement presence at our borders, FAIR has long been on record encouraging adoption of a fee assessed directly from those who cross our borders seeking entry into

the country (see, e.g., **Ten Steps to Securing America's Borders**, 1989, FAIR). Fees collected from border crossers could be used to augment appropriated funds to improve border enforcement, maintain and improve border infrastructures (to better handle vehicular and pedestrian traffic), provide adequate staffing levels and so forth.

Charging fees directly from the persons using the facilities is no new concept. It is a concept far older than our Republic, itself. Beginning in colonial times and running right up to the present, charging travelers for their use of roads, bridges and ferries has been common and traditional. Today, we all pay daily fees and tolls for our use of highways, bridges and publicly-owned transportation systems. Those who actually use the facilities pay their fair share while general tax revenues can be used for such things as debt reduction. In this time of necessary austerity and increasing demands on tax revenues, especially for debt reduction, it is only fair that those who cross our borders, no matter the purpose or degree of regularity, pay for the facilities they -- and only they -- use.

The precedent already exists. International travelers already pay. Today, international travelers arriving from many parts of the world by common carrier pay a \$10 premium or surcharge on their fares to offset the costs of immigration and customs inspections. On July 27th, the Clinton administration announced plans to raise these and other charges. The President offered a bill to Congress which contains a provision for increasing and expanding the surcharge to help offset aspects of its proposed immigration

reforms. A land border inspection fee would only complement an existing successful program of fee collection. It is a logical extension of current practice.

### **Fee Collections -- How To Do It**

Proposing the border fee is the easy part. The challenging part of it is devising methods of collecting it. Perhaps the main reason there has not been a border-crossing fee in times past is the potential difficulty of collection. In times past collection would have been extremely difficult and arduous. But with today's new technologies, collection is highly possible and practical. The basic methodology has already been developed. The few unique characteristics that may apply at the border can be resolved with applied engineering.

All traffic across our land borders is vehicular or pedestrian. Each method of crossing presents its own unique problem, and each can be addressed and solved by approaching them separately.

### **Vehicular Traffic -- A Model Program at Blaine, Washington**

Every land border crossing on both our Canadian and Mexican borders shares the common feature of having vehicular traffic. The same is not true for pedestrian traffic.

For many border ports, especially on the Canadian border, pedestrian traffic is rare to nonexistent. Since vehicular traffic is common to all ports, I will discuss it first.

At the present time, there is a pilot project in progress at the port of Blaine, Washington, which is intended to expedite inspection of regular border crossers. In an attempt to alleviate extreme congestion that often occurs at the port of Blaine, a trial was initiated in which frequent crossers (usually local residents) could purchase a decal for the windshield of their vehicles. Decals are issued to vehicle owners only after a thorough examination of the owner and/or regular driver of the vehicle. Only citizens of Canada, Mexico and the United States are eligible to participate. They are advised of severe penalties for bringing inadmissible persons and contraband into the U.S. and agree to abide by set rules.

The decal then entitles the driver of the vehicle to enter an "express lane" reserved only for people with such decals. In the express lane, the vehicle and occupants are given a quick visual inspection and waved through. Decal users are subject to regular random spot checks in which randomly picked vehicles are put through an extensive and thorough examination of both the vehicle contents and occupants.

Regular border crossers, who once experienced long delays in crossing the border, are now able to cross with almost no delay at all. And they love it! The local residents and businesses couldn't be more delighted. The Blaine experiment has been in existence

for a couple of years. So far, there seem to be few, if any, down sides to the program. Although its primary purpose is not to be a revenue generator, its \$25 annual decal fee brings in modest revenues which, in turn, are dedicated to improving border facilities. The experiment also shows that people crossing the borders are more than willing to pay fees if the fees help improve the facilities. (In fact, in 1990, when FAIR asked about willingness to pay a border crossing fee in Texas and California, our polls found a majority supported the idea -- and that support grew as persons lived closer to the border!).

Clearly, the Blaine trial does not have as its central purpose the generation of revenues. Most border crossers there still do not pay for crossing, and most still have the long waits for inspection while those who pay whiz by. This trial demonstrates that, at least on a limited basis, fee for inspection is possible, practical and acceptable. The question is: can fee for inspection be feasibly extended to all vehicular border crossings at all ports of entry? Using the Blaine pilot program as a model from which to build, a vehicular collection program can be developed on an expanded variation of the original.

Technical requirements for collection procedures vary widely by port of entry. A whole spectrum of situations exists, ranging from the port of San Ysidro, California, south of San Diego, which handles tens of thousands of entries per day, to some Canadian border ports which might see a hundred entries on their busier days. Obviously, methods and technologies to collect fees would vary with the varying conditions.

In the case of high-volume ports, special, new technologies and a variety of collection methods would be necessary and appropriate. Technology developed for bridge and turnpike toll collection exists today, providing for a computerized scanning process of bar codes on windshield or window identification decals. Use of this technology would allow frequent travelers to prepay fees or be billed for fees.

There are a number of variations on how it would work, but the following scenario would be typical. Decals or plaques having identifying bar codes would be purchased for established fees. The fees could be based on a number of entries or for unlimited entries in a given time period. An account would be created in a computer data base for each decal issued. In the case of an account allowing for a limited number of entries, a vehicle bearing a decal would pass through a designated traffic lane. A laser scanner would scan the windshield or side window for the decal or plaque containing an account bar code or other readable feature. If the code represented an active account, a lift gate would raise allowing the vehicle to pass on to immigration-customs inspection.

Several options would be open in the case of an expired or depleted account. One option would be to route the vehicle to a secondary station where the fee could be collected or the account replenished. Another option would be to allow the vehicle to pass, and the account holder could be billed through the mail. True scofflaws, those whose accounts are radically in arrears, would simply not be allowed to pass until paid up.

## **Pedestrian Traffic**

Collections from pedestrians, especially at high-volume ports of entry, is also addressable through technology. Models for automated payments already exist in the fare card systems used by some of our urban transit systems. A number of metropolitan transit systems use automated gates with electronic fare card access with remarkable success. Riders of all levels of education and language skills have easily learned and adapted to using these systems. In the case of the transit systems, fare cards are purchased from either vending machines or licensed vendors either in advance or at time of use. The local Washington Area Metropolitan Transit Authority provides service to an average of 530,000 passengers a day with very few problems among the users. A similar system of fee collection could be adopted for other high-pedestrian-volume ports of entry.

Consideration could be given to another new process that would expedite both inspections and fee collections all in one operation. This new technology, currently being introduced at high-volume international airports, could be adapted to land border ports of entry. The process allows frequent travelers to apply to be pre-screened for entry and be issued a special card that allows them to be inspected without a visual inspection by an immigration officer. Using a technology known as a "hand scan," each pre-cleared passenger is issued a card containing a magnetic or optically readable strip that holds data on the unique geometry of the hand of the holder of the card. When a card holder

arrives at a port of entry, the holder places his or her right hand on a receptacle of a hand-scan reader and runs the card through a slot in the same reader. The hand geometry is measured and cross-matched with data on the card and in an INS computer data base. If the hand matches and there is no cause for further examination, as indicated by the data base, a gate opens, and the card holder is admitted subject to conditions established in the pre-clearance process.

This technology could be further extended at land border ports for use in collecting crossing fees. In addition to containing information on the admissability of the card holder, the data base could contain account information on border crossing fee collection. Collections could be made in a manner similar to that described for vehicles using the scanner technology.

#### **Revenues and Costs -- The Investments Will Pay for Themselves**

Applying new technologies does not come without up-front investments. There will be equipment costs, along with additional personnel costs needed to service equipment and, in some cases, actually collect fees. Some redesign and reconstruction of high-volume ports of entry certainly will be necessary. Lower volume ports of entry will require less redesign and reconstruction because the methods of collection will be less sophisticated. The largest land border port of entry is San Ysidro. It has the largest volume of traffic, both vehicular and pedestrian. It would require the most sophisticated

approaches, and could be a model from which all others would be compared and designed. It will also yield the greatest revenue.

Below a certain level of volume, a port of entry would not need extensive high-technology assistance to make its collection. Use of vehicle scanners or automated pedestrian gates would be extreme overkill for a Canadian border port that has the rare hiker as its only pedestrian and only a handful of vehicles every hour. In such cases, decals bearing a term of validity for vehicles, along with individual cash collections for the rare pedestrian and the casual vehicular traveler, might be more in order.

Vehicle scanners cost the Oklahoma Turnpike Authority about \$39,000 each. Washington's METRO's fare card vending machines cost between \$33,000 and \$35,000 each to purchase. Entrance gates cost around \$25,000. San Ysidro has 24 vehicle lanes and 16 pedestrian lanes that would require equipment. Equipment for San Ysidro's vehicle lanes would cost something in the neighborhood of \$930,000, including installation, and \$1,018,000, including installation, for the pedestrian lanes. A computer system to maintain accounts and track entries could cost an additional \$5 to \$6 million, for a total initial cost of \$7 to \$8 million.

By today's volume of an average of 1.25 million vehicles per month and 800,000 pedestrians per month, a charge of an average of \$5 per vehicle and \$2 per pedestrian would produce revenues of about \$7.9 million per month at that port of entry alone.

(This would require a base fee of \$3 per individual with provisions for discounts for frequent user passes.) One month's revenues would cover capital equipment costs plus installation. Gross revenues minus collection overhead would provide sufficient funding to fully staff all lanes of the port of entry to provide virtual drive-up service, eliminating endless lines waiting for inspection that are common now. Benefits obviously would outweigh the costs.

Nationwide, overall gross revenues, based on 400 million 1991 land border crossings and fee schedules that would bring an average of \$2 per crosser, would amount to about \$800 million. Overhead costs of collection, which include collection personnel salary and expenses, security, equipment maintenance and replacement and depreciation of equipment and facilities, at a maximum might reach 30 percent, leaving net revenues of nearly \$600 million. Since there has been a continuing trend over the last several decades of increasing numbers of entries, even greater revenue collections can be anticipated. Clearly, such revenues would provide funds that cannot be found from general tax revenues in today's fiscal climate.

### **Security**

Ports of entry are controlled points for legal entry through our borders. There, people desiring to move from a neighboring country into ours establish they are legally permitted to do so, and our government is given an opportunity to inspect and assess

duties or bar merchandise they may be bringing with them. The inspection process is designed to turn away those barred by law from entering or those who would evade paying duties or smuggle contraband. Many who cannot pass the inspection process often seek entry through non-designated locations or the "unguarded" part of the border. In order for the inspection process to be effective, the area of the border between the ports of entry must be secured to the greatest extent reasonably possible. That is the job of the Border Patrol.

Since the integrity and effectiveness of the ports of entry depend on inter-port security, revenues derived from border entries should be shared with the Border Patrol. The funds could be used by the Border Patrol to augment its personnel, provide equipment and vehicles, construct deterrent structures in limited strategic locations, purchase detection technologies to detect and track illegal border crossers, repair and maintain existing fences and deterrent structures. All are essential to maintain the integrity of the activities of the ports of entry.

#### **Opposition to Border Fees -- Phony Arguments**

Various arguments have been put forward against border fees. Only two seem to merit a response.

The first argument is that it would adversely affect workers who work in the U.S. but live in Mexico and commute to their jobs on the U.S. side. My response to this is that most workers in the United States must pay certain costs of commuting and working. Commuter aliens are actually lawful permanent residents of the United States who have been given a special dispensation to live in a neighboring country. In the case of those living in Mexico, their wages are earned in the U.S. economy while their living costs are those of the Mexican economy. The advantage gained through this arrangement is sufficient offset to provide them the means to pay for the inspection process they use every work day. We also recommend a discounted fee system to ease the impact on the regular crossers.

The second argument is that a fee would have an adverse impact on border commerce. To that I must say, just the opposite is true. Improving inspection facilities and increasing inspection personnel, along with possible express lanes will ease the frustrating congestion and long waits now usual at many border crossings. Elimination of lines and waits will allow more shoppers to enter the U.S. and bring much more business activity to border businesses. Also, if a modest fee would keep a shopper home, one must ask just what value that shopper's business could have been. The pilot project at Blaine, Washington, has shown business improved markedly after crossing the border became a less onerous process.

## Other Revenue Sources

On the Mexican border, almost every alien entering must be documented.

Regular border crossers who are eligible to enter the U.S. for short visits are now issued border crossing cards (I-586s) without any charge to them. They are a relatively secure document containing the bearer's photograph and certain biographic data. Before they are issued, limited background checks through border agencies' records systems and FBI files are conducted. Issuing the cards is not without substantial cost to the government. Furthermore, the border crossing cards have, through the years, been extensively abused. The bearer of a border crossing card is limited to a 72 hour visit and forbidden to work. The latter restriction is regularly disregarded, and the card is used in such instances as a vehicle to enter the U.S. for the purpose of violating the permit's conditions. Enforcement of the conditions is also a costly process. Under current procedures, the cards are non-expiring. Many card holders have cards containing photos that are twenty or more years old, bearing little, if any, resemblance to its possessor today. Because of difficulties of matching the card to its holder, impersonations are not infrequent. They should be replaced at least every five years.

Because of the costs of issuance and enforcement and the current fiscal condition of our government, fees covering the true costs of issuing and administering the cards should be considered.

Other permits are regularly issued at the ports of entry for extended visits and visits into the interior of the U.S. All have costs. Consideration should be given to charging fees for issuing those documents as well.

## **Conclusion**

Providing inspection services for free may have made some sense in more prosperous times. But we are now in crisis times. There is more demand than ever for these and associated services while the money available to provide them is drying up. We must ask the users to pay for what they, alone are using. The net result will be fewer delays at the border along with a boost to border businesses.

If the North American Free Trade Agreement is eventually ratified, the demands on our border facilities will be extensively increased both in intensity and volume. Unless there is a universal improvement in staffing and facilities at many locations, the delays, even by today's standards, will be unimaginable. Extensive increases in personnel and resources are essential. The only way it can be done is by asking the users to pay. Everyone will benefit, especially those who legally cross our borders with great frequency.

**Conclusion**

Mr. Chairman, in conclusion we recommend the enactment of legislation that would require the Attorney General to impose varying fees for land border crossers to be used to improve inspections and border enforcement. The idea is practical, cost-effective, one whose time has come, and it would bring land border crossers into equity with the other international travellers coming to the United States. Thank you very much for this opportunity to present the views of the Federation for American Immigration Reform.

Mr. CONDIT. Thank you.

Our next witness is Mr. Pegg, the president of the San Diego Economic Development Corp.

Mr. PEGG. If I may put the full statement in the record and in the interest of brevity I will kind of summarize.

Mr. CONDIT. We appreciate that.

# **STATEMENT OF DANIEL O. PEGG, PRESIDENT, SAN DIEGO ECONOMIC DEVELOPMENT CORP.**

Mr. PEGG. Unless I read the maps wrong, the border of San Diego City terminates with the Mexican border.

But I am here to talk about a broader regional issue because San Diego County is in the San Diego-Tijuana region. We are here to talk about two distinctly different issues, legal versus illegal immigration and how to pay for each.

Last year in the San Diego region we inspected 100 million individuals crossing the border. San Ysidro is the busiest port of entry in the world in terms of the United States. It currently exports about \$3.7 billion to Mexico. We have about \$2.5 billion spent in the San Diego region by Mexicans traveling into the region from their own country. So clearly, in our own best interests, we would like to see expeditious movement of goods and services across the border. But keep in mind those figures are in the context of the \$61 billion gross regional product.

So Mexico is a very significant component, but we have a very diversified economy. So in our view this issue comes down somewhere between what we have heard so far this morning.

For us, the illegal immigration is a much more serious concern. It costs the State of California about \$1.7 billion. Last year it cost the San Diego regional government about \$146 million net. That is enough to balance the regional budget this year and provide significantly enhanced services for the citizens who live there.

So you can understand why we strongly support Senator Feinstein's six-point proposal and the suggestion made by the President. We view it as an issue that is costing all the American taxpayers and one that the costs of enforcing this issue should be borne by all American taxpayers.

With regard to user fees, I think an argument can be made for a fee that is directly related to service provided. We would not like to see that, obviously, for our own self-interested reasons.

But we have had a real problem with user fees that are not directly related to the services provided. The example used earlier was the Golden Gate Bridge. Well, those fees go directly toward paying the cost of operating the bridge, moving people from one side to the other.

There are three alternatives if you wish to drive farther, and the maintenance of the bridge is included. What you are asking border crossing to do, if it applies toward illegal immigration, is to subsidize a national policy by paying a larger amount of money for crossing that border.

The other issue that comes to mind is \$1 per head crossing fee. By the time you pay to collect it, it is not going to impact significantly the cost of illegal immigration nor enforcement very significantly.

So we strongly support Senator Feinstein's proposal. While we would not like to see a user fee imposed, we can see an argument being made for one and especially—and perhaps we could support it only if it were to reduce the in excess of 1-hour waits frequently experienced in San Diego.

We have many of the same difficulties in terms of pollution that El Paso is experiencing. On balance, we see the issue of financing the cost of enforcing the illegal immigration policy as distinctly different from financing the enhanced services to be provided by the legal point of entry. Thank you.

[The prepared statement of Mr. Pegg follows:]

# San Diego Economic Development Corporation

TESTIMONY BY DANIEL O. PEGG

PRESIDENT, SAN DIEGO ECONOMIC DEVELOPMENT CORPORATION

Before the Subcommittee on Government Information,

Justice, Transportation, and Agriculture

Committee on Government Operations

July 29, 1993

On behalf of the San Diego Economic Development Corporation, I would like to thank you for the opportunity to testify on this very important issue. San Diego is located directly on the Mexican border and, along with Tijuana, is home to more than half of the population on the U.S./Mexico border. Our region will be significantly impacted by the decisions that are being made relative to the proposed immigration reforms and user fees.

To give you some background on our region, we have five (5) ports of entry: San Ysidro, Otay Mesa, Tecate, Mexicali and Andrade. In 1992, we inspected approximately 100 million people northbound into our district, that would equate to \$ 100 million dollars of revenue if the proposed one dollar fee were to be adopted. (San Ysidro is the busiest land border crossing in the world).

Our regional economy is inextricably linked to Mexico, and any fee that impedes the access to our markets needs to be examined very closely before it is enacted or supported. But, given the severity of the illegal immigration problem in California and the rest of the United States, some very significant changes will need to be made to curb the exorbitant costs that are being incurred.

The cost of illegal immigration has become such a burden that our own legal residents are now being denied services so that we can provide the services that we are legally obligated to provide to illegal immigrants.

The issue of illegal immigration has been in the fore front of our minds for many years. The cost impacts on San Diegos economy in 1992 was estimated at \$ 146 million. Those funds would be more than enough to balance cur cities budget and significantly enhance the level of service that our citizens are currently receiving.

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helping to strengthen San Diego's regional economy  
partially funded by the City, Port and County of San Diego

We feel that part of the proposal made by Senator Feinstein and the recent recommendations by President Clinton are steps in the right direction. However, there are some concerns about the proposed user fee and the use of the funds generated. As an example, when someone crosses the Golden Gate Bridge, they pay a toll for the use of the infrastructure to get from one side to the other. When a citizen pays this fee to cross the Bridge, he or she is paying for a service. But, in the case of the border crossing fee, a citizen is charged for a federally mandated inspection. If these funds are used to combat illegal immigration, this user fee is merely a tax levied on those that cross the border. For those who live on the border this can be a financial burden.

Currently, we often experience delays in excess of one hour for northbound traffic. We have 24 northbound lanes at San Ysidro and more often than not only half of those lanes are staffed. Both I.N.S. and Customs are understaffed. If the proposed user fee could be spent on staff, that would reduce the waiting time. Most businesses and tourists would pay one dollar for better service and shorter lines, assuming that the fee could be collected without extending the wait.

At the present time, the revenue that is generated by Customs and I.N.S. is sent to the general fund. If this proposal hopes to generate support from the private sector, increased staffing and improvement of service will be key.

Many business leaders are suspicious of another user fee because the U.S. Customs commercial user fee has not been used to increase staffing but has gone directly into the general fund.

Assuming the proposed \$1.00 fee is adopted, it will not raise enough money to offset the cost of illegal immigration, even if there is no incremental expense associated with the collection of the fee.

One final point which needs to be considered is that the North American Free Trade Agreement proposes lowering tariffs and easing barriers to trade. This proposed user fee could send the wrong message to the Mexican government about our willingness to encourage a better flow of goods and services.

Mr. CONDIT. Mr. Nowak.

Mr. Nowak is the executive director of Population-Environment Balance. Thank you for being here.

**STATEMENT OF MARK NOWAK, EXECUTIVE DIRECTOR,  
POPULATION-ENVIRONMENT BALANCE**

Mr. NOWAK. Thank you, Mr. Chairman. I represent Population-Environment Balance, a national grassroots organization of over 5,000 members demonstrating the link between population growth and environmental degradation in the United States. BALANCE advocates population stabilization in the United States through replacement-level fertility—two children per couple—and replacement-level immigration—the level at which immigration equals emigration, or about 200,000 a year. Our central concern is that the United States is presently growing by more than 3 million people each year, with nearly 50 percent of that growth attributable to immigration, both legal and illegal.

Under current U.S. policy, approximately 1 million people immigrate to the United States every year, contributing to environmental stress in the United States and adding to budget deficits at all levels of government. Indeed, a recent study by Economics Professor Donald Huddle estimates that immigration to the United States over the next 10 years will cost an average of \$67 billion annually. This figure represents net costs, that is, after tax and Social Security payments made by immigrants have been deducted.

Today this subcommittee is focusing on budgetary matters, but the costs of population growth are not just fiscal; we are losing 1.5 million acres of farmland per year. We are polluting and drawing down our aquifers in excess of their recharge rates, and we are using energy at unsustainable levels. These are merely a few indicators that U.S. population growth is threatening the long-term carrying capacity of the environment. Let me point out that carrying capacity, not land area, is the criterion to determine whether an area is overpopulated. The carrying capacity of an area is determined by the number of individuals who can be supported without degrading the natural, cultural, and social environment over the long term.

As a component in stabilizing population growth, legal immigration, which accounts for three-quarters of all immigration to the United States, should be reduced and illegal immigration halted. Current funding levels for the Border Patrol make the latter goal impossible. A \$1 border crossing fee, however, is projected to raise approximately \$400 million a year, a portion of which could be used to strengthen the Border Patrol and to reduce illegal immigration.

The Census Bureau estimates that 300,000 people immigrate to the United States illegally each year, but the actual figure may well be much higher. While the Immigration and Naturalization Service reports that more than 1 million individuals are apprehended at the border every year, no one knows how many individuals successfully cross or how long they stay. The 1990 census contains an undercount of more than 5 million people, many of whom may well be here illegally. The costs of known illegal immigrants is high: The estimated 4.8 million illegal immigrants who have set-

tled in the United States since 1992 have resulted in public assistance and displacement costs of \$11.9 billion net of taxes they paid.

Border Patrol funding should be increased now not only to stop current illegal immigration, but to prevent illegal immigration from increasing in the future. Population pressures the world over are mounting. Mexico, with a current population of 90 million people is projected to increase to 118.5 million by 2010. To keep pace with that level of growth, Mexico needs to create 1 million new jobs every year. By 2010, the level of job creation will need to be higher still. No economic or trade policy can deliver increasing job creation rates indefinitely. As population pressures in Mexico and other countries mount, the pressure to emigrate will increase.

Instituting a border crossing fee is an appropriate avenue for generating revenue for the Border Patrol. Just as toll roads succeed in passing along the costs of building and maintaining the road substantially to those who use the road, a border crossing fee would pass the costs of border administration on to those people using that service. A user-based fee also has the advantage of balancing revenue with cost. It is difficult for Congress to appropriate revenue to meet demand when demand levels fluctuate between appropriations. With a use fee, as border traffic increases, revenues increase as well.

We at BALANCE are concerned with numbers, and the effect of a growing population on the environment. BALANCE encourages the implementation of a border crossing fee to reduce illegal immigration, and to pass the costs of immigration administration on to those who use the service. By doing so, we take a step toward reducing both the environmental and economic impact of our rapidly growing numbers.

Thank you for your time and the opportunity to address this subcommittee.

[The prepared statement of Mr. Nowak follows:]



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*Population-Environment Balance, Inc. is a national, non-profit membership organization dedicated to maintaining and improving the quality of life in the United States through population stabilization.*



*printed on recycled paper*

**TESTIMONY OF**

**MARK W. NOWAK, EXECUTIVE DIRECTOR**

**POPULATION-ENVIRONMENT BALANCE**

**TO THE**

**U.S. HOUSE OF REPRESENTATIVES**

**COMMITTEE ON GOVERNMENT OPERATIONS**

**SUBCOMMITTEE ON INFORMATION, JUSTICE,**

**TRANSPORTATION AND AGRICULTURE**

**AUGUST 3, 1993**

Members of Congress, Ladies and Gentlemen:

Population-Environment Balance (BALANCE) is a national, non-profit grassroots organization of over 5,000 members working to demonstrate the link between environmental degradation and population growth in the United States. BALANCE advocates population stabilization in the United States through replacement-level fertility (two children per couple) and replacement-level immigration (the level at which immigration equals emigration, or about 200,000 a year). Our central concern is that the United States is presently growing by more than three million people each year, with nearly 50% of that growth attributable to immigration, both legal and illegal.

Under current U.S. immigration policy, the approximately one million people who arrive legally and stay every year not only contribute to the adverse impact on the environment of our rapidly increasing numbers, they also add to the burgeoning budget deficits at all levels of government. Indeed, a recent study by Professor Donald Huddle of Rice University estimates that immigration to the U.S., legal and illegal, over the next ten years will cost an average of \$67 billion annually.

The costs of population growth are not just economic; we are losing over 1.5 million acres of farmland per year, we are drawing down our underground water supplies 25% in excess of their replacement rates, and we are using energy at unsustainably high rates. These are merely a few indicators of the fact that U.S. population growth is threatening the long-term carrying capacity\* of the environment.

With 400,000 legal border crossings by land and sea annually, a \$1 border crossing fee would raise approximately \$400 million dollars a year (more than twice the fiscal 1993 border patrol budget of \$150 million), a portion of which could be used to strengthen the border patrol and to reduce illegal immigration.

Illegal immigration to the U.S. is a significant problem. The Census Bureau estimates that approximately 200,000-300,000 illegal immigrants arrive and assume permanent residence in the United States every year, but this figure may well be higher. According to the Immigration and Naturalization Service (INS), more than one million individuals are apprehended at the border every year. No-one knows, however, how many individuals successfully cross the border and once here, how long they stay. The Census Bureau acknowledges that the 1990 census contains an undercount of more than five million people, many of whom may well be here illegally. The estimated 4.8 million illegal immigrants who have settled in the U.S. since 1992 have resulted in public assistance and displacement costs of \$11.9 billion net of taxes they paid. By using a portion of the revenue generated from a border crossing fee to increase border patrol funding, a much greater portion of illegal border crossings would be halted.

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\* Carrying Capacity, and not land area, is the criterion to determine whether an area is overpopulated. Carrying Capacity means the number of individuals who can be supported without degrading the natural, cultural and social environment, i.e., without reducing the ability of the environment to sustain the desired quality of life over the long term.

It is critical that border patrol funding be increased now not only to stop current levels of illegal immigration, but to prevent illegal immigration from increasing in the future. Population pressures in the majority of the world's countries are mounting. Mexico with a current population of 90 million is growing by 2.3% a year and projected to increase to 118.5 million by 2010. To keep pace with current population growth, Mexico needs to create one million new jobs every year, a rate of job creation that cannot be maintained indefinitely regardless of the effects of any economic or trade policies. By 2010 when Mexico's population reaches 118.5 million, the rate of creation needed for full employment will be even higher. As population pressures in Mexico and other countries mount, the pressure to emigrate will increase.

Instituting a border crossing fee is an appropriate avenue for generating revenue for the border patrol. Just as toll roads succeed in passing along the costs of building and maintaining the road substantially to those who use the road, a border crossing fee would pass the costs of border administration on to those people using that service. A user-base fee also has the advantage of balancing revenue with cost. It is difficult for Congress to appropriate revenue to meet demand when demand levels fluctuate between appropriations. With a use fee, as border traffic increases, revenues increase as well. Finally, because a border crossing fee is tied to use, it is not discriminatory. Every person crossing the border -- American and foreign -- would pay the same fee.

BALANCE encourages the implementation of a border crossing fee. As I indicated, the U.S. population increases by more than three million a year, 50% of which is attributable to immigration, both legal and illegal. This proposal would help reduce a substantial portion of that growth by helping to reduce illegal immigration, and it would pass some of the costs of immigration administration on to those who use the service. By doing so, we take a step toward reducing both the environmental impact of our rapidly growing numbers and the costs of immigration which are a significant factor in our large budget deficits at all levels of government.

Thank you for your time, and the opportunity to address this subcommittee.

## WHY EXCESS IMMIGRATION DAMAGES THE ENVIRONMENT

### Stable Population Size Essential to Protect Environment

BALANCE's position is based on the realization that a stable U.S. population size is essential if we are to prevent further deterioration of the very system that supports us — our environment and natural resource base. Regardless of how conservatively we use resources, the fundamental fact is that growing numbers of people unavoidably place increasing demands on our natural and social environment. More people mean more energy use, more traffic jams, more production of toxic wastes and increased tensions which result from living in crowded urban environments. However efficient we may be in the use of resources and however much we conserve in our attempt to preserve our environment, more people simply mean more stress on the ecosystem. The phenomena of crowding, deforestation, acid rain, global warming and the whole litany of environmental ills in the U.S. and elsewhere amply demonstrate that every person, however conservative, adds to the environmental burden.

### Carrying Capacity, Not Land Area, is Key Consideration

In the United States, why don't we just disperse our population over the "wide open spaces" which (decreasingly) still exist in places such as Alaska, Utah, Nevada, some of the central states, and elsewhere? Doesn't our large land area provide the answer? Unfortunately, the answer is an emphatic: "No!"

The key to understanding this lies in the essential fact of "carrying capacity" — the number of people who can be sustainably supported in a given area without degrading the natural, social, cultural and economic environment for present and future generations. Carrying capacity involves the capacity of the natural environment to provide the resources, food, clothing and shelter we need, and the capacity of the social environment to provide a reasonable quality of life.

While many factors (e.g., energy, forests, pollutants) could be chosen to illustrate carrying capacity limitations on population size, consideration of one striking example, water, brings home very quickly an appreciation of the importance and usefulness of the carrying capacity concept. The West, Southwest and certain central states, indeed, many areas of the United States (generally those experiencing the most rapid population growth), are afflicted either with water shortages or with the toxic pollution of water. Many areas have limited rainfall or few other naturally occurring sources of water, and many are depleting underground aquifers in excess of recharge rates and/or polluting them. Thus, since potable water is essential to life, the carrying capacity of limited-water areas extending over many states is extremely low for all forms of life, including humans.

Moreover, there are no cost- or energy-efficient ways on the horizon for increasing the supply. Desalination techniques are expensive and energy-intensive in an energy-short world, and the benefits of using conservation techniques, such as drip irrigation, while important, are not (and at current rates of population growth, will not be) sufficient to offset the demands of an increasing population.

### Why Population Dispersal Will Not Work

Thus, regardless of what some may contend, we cannot disperse people to relatively unpopulated areas because the carrying capacity simply is not there. Expensive schemes to supply water to such areas or to others where burgeoning population is overrunning and/or polluting the water supply serve only to reduce the carrying capacity of water source areas, while, in the long run, allowing recipient areas to be overwhelmed once more by ever increasing numbers of people. Many regions of the country are even now depleting underground aquifer at rates far in excess of their recharge rates because, in carrying capacity terms, they are already overpopulated.

Although emergency measures and unusually heavy rainfall may ameliorate the situation in short term, such pattern of use are not sustainable in the long term as population continues to increase. In some areas of the country, on the East Coast, and especially in Florida, the toxic pollution generated by dense population is already permanently destroying underground aquifer reservoirs.

One can perhaps get a clearer understanding of the carrying capacity problem by seeing it essentially as caused by a population longage rather than a water shortage. Indeed, the list of carrying capacity factors which limit and which are affected by population longages is extensive, including energy, prime agricultural land, timber, open space, and peace and quiet, just to name a few.

The point is simple enough: More people demand more of the shrinking resources and, in using them, create more pollution. Global warming, species extinction, acid rain, deforestation of the Tongass and other national forests are among the signals that the United States' and world's population increase is pushing the environment beyond its ability to sustain a desirable quality of life.

### **The Ultimate Environmental Threat: Overpopulation**

One result of overpopulation, therefore, is that resources are depleted and the environment is degraded to the point that an area loses part of its capacity to support population in the future. When the carrying capacity is exceeded, the environmental damage is usually so severe that the population carrying capacity for future generations is greatly reduced. This chain of events is not just true of the Amazon Rain Forest or of Central America or of Bangladesh or of deforested Nepal. It is also especially true for many areas of the United States and for the United States as a whole.

In Southern California, for example, absolutely limited amounts of imported potable water are becoming increasingly precious and there is pressure to build ever more aqueducts to bring water from ever greater distances. The public at large, stalled in gridlock and waiting for rain, is beginning to perceive the absolute limits on the population carrying capacity of such areas.

It is particularly important for the United States to stop its population growth because, while the U.S. contains only about 5% of the world's population, it uses disproportionately large amounts of the world's resources (e.g. approximately 25% of its fossil fuel) and produces over 25% of the world's CO<sub>2</sub>, which contributes to the greenhouse effect. Thus, stopping population growth in the United States is essential if we are to protect both the United States' and the world's environment.

### **Population Carrying Capacity is Adversely Affected by Excess Immigration**

The United States' population is increasing by 3 million per year. Since immigration from foreign countries causes 50% of the United States' population growth (and over 60% of the population growth of some states such as California and Florida), and since the United States too has a limit on its carrying capacity, excess immigration creates a significant environmental threat.

Worldwide, a common response to carrying capacity problems is to migrate to areas where the carrying capacity has not yet been pushed beyond the limit or is perceived to still provide opportunities. Many Central Americans, for example, have chosen that (apparent) solution recently. Since the world's population is now increasing at an alarming rate — by about one billion people every 11 years — these pressures will only increase.

The problem is that such migration not only threatens the carrying capacity of the destination countries, but also creates the harmful illusion in the sending countries that continued population growth is an acceptable option.

Numerous other present and historical examples can be cited of population size exceeding the sustainable capacity of the environment due in part to the false perception of an adequate carrying capacity. The result is almost always increased migration pressure as well as the other components of overpopulation: Unemployment, social disruption and environmental damage.

For example, the introduction of the potato into Ireland in the eighteenth century both increased productivity of the land and encouraged new estimates of how many people could be supported on a piece of land, and thus provided an "incentive" for large family size. However, no allowance was made for the momentum with which population began to grow or for less than optimal harvests. The result (of that "longage" of people or "shortage of food, depending on how one looks at it) was the Irish potato famine.

Populations try to move out of countries where they have overwhelmed the carrying capacity. Today, the pressures from every continent continue to increase — world population is growing by 97 million per year! Many already have come to the United States, but no region, including the United States, has the capacity to absorb all those desiring to immigrate. It is doubly unfortunate, therefore, that the perception of opportunity in the U.S. acts as a disincentive for overcrowded countries to face and begin to correct overpopulation problems at home.

Thus, allowing too much immigration both creates an environmental threat and sends a misleading signal. Perhaps all countries should consider limiting immigration to levels within their carrying capacities in order to more effectively protect the environment. Slowing immigration in excess of carrying capacity ignores limits in both sending and receiving countries. Such a disregard represents a serious threat to the environments of all countries involved.

### **Limiting Excess Immigration is Ethically Right and Environmentally Sound**

People on the move always create moral dilemmas since it is natural to be sympathetic with the migrants. However, the practical and moral question is what to do about those wishing to come to areas like the United States which are perceived, falsely, as affording virtually unlimited opportunities and resources. In our case, we are forced to carefully consider whether allowing continued or increased immigration is a net benefit or a detriment to the United States, to the immigrants themselves, and to the countries from which they come.

In addition to the carrying capacity of the natural environment already discussed, a number of social and economic carrying capacity factors are relevant here. Most immigrants to the United States are poor and either semi-skilled or unskilled. The fact is that they compete with our own poor, unemployed and homeless for housing, employment and opportunity. **It is not fair to our own poor and unemployed to bring in their competition** since we do not have unlimited natural and social resources or unlimited jobs or budgets. The cornucopian notion of unlimited bounty held by many abroad and by some Americans is, in fact, a myth to which our budget deficits, resource shortages, overcrowded cities and environmental ills amply testify.

### **Emigration Hurts the Countries from which Immigrants Come**

Emigration does not benefit the countries from which immigrants come, either. It is often the politically dissatisfied or economically unfulfilled who decide to leave. Their feelings are understandable, but BALANCE believes that we should not encourage them to migrate. These dissatisfied people are precisely the ones who should stay at home because they are often the most motivated and best able to rectify the problems of their own societies. What, for example, would have happened to the Polish reform movement had Lech Walesa decided to emigrate to the United States? Although most immigrants to the United States are relatively unskilled, a small number are skilled. Is it fair to other countries to allow the brain drain to the United States to continue? Their exodus is their country's loss.

Perhaps most important, many of the countries from which prospective immigrants come are countries with very high and entirely unsustainable population growth rates. Many have population doubling times of between 20 and 30 years, large numbers of children per family, and an extremely large proportion of the total population which is very young. For example, if present trends continue, Central America (including Mexico) will add 50 million people by the year 2010.

Since many in these countries hold the illusion that the United States has unlimited resources and an unlimited capacity to accept immigrants, and will continue to accept large numbers of them, their governments have no real incentive to take steps to limit their own population by encouraging small family size and making contraception more widely available. The conclusion which they can justifiably draw from the present "open door" U.S. immigration policy is that a significant portion of their "excess" numbers can always go to the United States. This misconception only delays their attempts to slow their own population growth.

### **Other Countries' Experiences Demonstrate that Restricting Migration is Beneficial**

China has recently instituted regulations aimed directly at limiting the migration from rural areas into overcrowded cities. An important aspect of this policy is apparently to encourage people in the rural areas to bear the burden of their excessive reproductive rates and thus induce them to adjust the number of children to a level consistent with realistic expectations of local economic and environmental conditions. Indeed, many present and historical examples indicate that people respond to perceived scarcity or opportunity by having fewer or more children, respectively.

In short, we are being unethical and unjust to our own people and to those from other countries by allowing excessive immigration and thus refusing to directly confront the carrying capacity problem. We send these countries the wrong signal, the signal that their high emigration and high birth rates can continue since the United States will provide a safety valve. This is neither good for other countries nor good for the United States.

We should be sending them another signal, namely that the United States will take a strictly limited number of immigrants who can be successfully absorbed within our population carrying capacity, but no more. This policy would send the right signal to other countries and, in the process, allow us and them to protect the environment. Each would limit its own population growth, so each could help its own poor and employed.

### **How much Immigration is "Excessive"?**

Clearly, this brings us to the key issue: How much immigration is excessive? Answering this question involves considering what population size is "ideal" for the United States, given our population carrying capacity. Precise answers are difficult, but honest observation and common sense suggest that from a carrying capacity perspective the United States may well be overpopulated already.

The evidence for overpopulation is widespread, including our water shortages, our excessive pollution, our great pressures to cut ever more timber from our national forests, our decreasing wildlife habitat, our paving over of 1.5 million acres of farmland a year, our overcrowded recreation areas, crowding in our cities, and our inability to provide and maintain an adequate infrastructure of schools, roads and other physical facilities. All this and more point to the fact that the United States may already have exceeded the ideal population carrying capacity. After all, we must reemphasize that sparsely inhabited or open land does not necessarily signify additional carrying capacity.

### **To Protect the Environment, We Must Achieve "Replacement Level" Immigration**

Therefore, to safeguard our carrying capacity and maintain our quality of life, BALANCE believes that the most sensible course to take is to stabilize our population size as soon as possible. Although our total fertility rate is near replacement level, our population will still continue to grow for several decades because of the large number of women from the baby boom generation currently in their childbearing years (this phenomenon is known as "population momentum"). Consequently, immigration from other countries provides the crucial variable in our efforts to stabilize America's population.

In sum, achieving population stabilization must include a goal to reduce immigration into the U.S. from its current level (more than 1,000,000 legal immigrants and an estimated 200,000 to 300,000 illegal immigrants every year) to a "replacement level" immigration rate that would parallel replacement level fertility. We should have a replacement level immigration ceiling of no more than 200,000 because about 200,000 people leave the United States voluntarily every year. Balancing immigration and emigration will be instrumental in balancing our population with our environment

### **An All-Inclusive Immigration Ceiling of 200,000 Per Year Will Make Long-term Environmental Protection Possible**

This immigration ceiling should also be all-inclusive. That is, it should include refugees, asylees, relatives and all other immigrants. Anything short of an all-inclusive ceiling would risk discriminating against certain groups of people, would unfairly undermine the principle of replacement level immigration and would undercut our goal of attaining a stable population within carrying capacity limits.

While BALANCE is primarily concerned with numbers only, certain considerations should apply regarding who should be admitted under such a ceiling. While many people (and certainly more than 200,000) will claim that they should be admitted under such a ceiling, there will be those who should have special consideration — those who are legitimate refugees facing imminent persecution, for example. Some of each of these should be admitted, but only to the extent that the total does not exceed the "replacement" level ceiling of 200,000 annually. We must acknowledge, and others must recognize, that the United States simply cannot take in all of those who want to come to this country.

We must be fair to ourselves and to others by being realistic. We must enact a responsible immigration policy. This requires that we act now to stop illegal immigration and to limit legal immigration to replacement level, namely, 200,000 per year. Those 200,000 places should be allocated in the best interest of the United States as determined by Congress and the American people. BALANCE does not take a position on who should be admitted to this country. We believe that the cornerstone of our environmental and immigration policies must be population stabilization.

In sum, overpopulation is the ultimate threat to the environment, and immigration is the critical component in our rapid population increase, which is the highest in the industrialized world. We owe it to ourselves, to our poor and homeless, and to other countries to act now to limit immigration into this country to replacement level in order to protect our environment and safeguard our long-term carrying capacity. By working first in the United States to stabilize our population, we can send a signal to other countries that says we have limits to our capacity to absorb immigrants. We can become a model of population stabilization for others so that we can each work toward safeguarding our own carrying capacity and thus safeguard the carrying capacity of our planet.

Mr. CONDIT. Thank you, sir. We appreciate your being here this morning.

Mayor Francis, one of your objections to a border fee is that you are not sure whether or not the border fee generated will come back to the local governments to offset costs.

Would you be less opposed to a border fee if you knew that some of that revenue was coming back to border towns to provide services that cities and counties have to provide because of immigration policy?

Mr. FRANCIS. Well, I think it is two issues, sir. Yes, I feel we need a portion of any fees collected because we are the door. However our position is we feel the fee should be over on the commercial sector, on the trucks coming across as opposed to the individuals because it will cost those people who are making \$8 a day.

Also, Mexicans will institute such a fee going back so it will be \$2 per round trip and that is one-fourth of their wage. So they will start wading in the river.

If I may respond to Mr. Stein, he said we were the people who ended up in El Paso and it was not their fault. I will tell my constituents about the tragedy on the Mississippi River, we will have not have to contribute because Des Moines was on the Mississippi River.

Mr. CONDIT. How do you feel about toll fees on bridges and roads? I understand there are a number of fees as you come in crossing the border on to bridges and roads in that particular area.

How do you comment that that has not hurt the economy or commercial growth at all?

Mr. FRANCIS. In our area?

Mr. CONDIT. In your area I understand there are some tolls.

Mr. FRANCIS. We have three bridges with tolls that the city owns. Your bridge is free.

Mr. CONDIT. The Federal Government bridge is free. That is par for the course.

Mr. FRANCIS. Two of our bridges were built back 40 or 50 years ago. The reason that was imposed was to pay for us building it. We rebuilt the bridges and that fee structure is paying for amortizing the cost of those bridges and not for any other purpose than that. I happen to have the numbers. We are actually losing about \$100,000 an year on the deal as it is. But that is the purpose of our fees.

Mr. CONDIT. So your suggestion is to charge commercial traffic as they come across to offset the costs for providing the services?

Mr. FRANCIS. That is correct. My position is the maquiladora industry is huge on the border. I don't think anybody will deny that. The number of crossings an day by the 18-wheelers is unbelievable. They are overloaded. Therefore, we would prefer that the fees be placed on those vehicles if you want to raise money to offset some of your costs and also raise money for us to offset costs on our streets.

Mr. CONDIT. Do you have any idea what that would cost per 18 wheeler?

Mr. FRANCIS. I would guess you could impose a fee of \$4 to \$5 a vehicle.

Mr. CONDIT. I know you can relate to Mr. Schwebel's comment. I certainly can and I believe it to be true, once you levy a fee it never goes away, it is with you forever. Mr. Pegg, Mr. Stein how do you resolve that? Do you think the fee should go on forever and as time goes by it goes up? That is normally what happens.

Mr. PEGG. The argument can be made for a user fee. It will be matched or exceeded by the Mexicans. It flies in the face of NAFTA and it would have some, although not a significant impact, I don't think, on our local merchants. There already is a commerce user fee. The unfortunate part of it is that it goes into the general fund and does not apply to facilitating the movement of goods and services across the border. So unless there is something, whether it is commercial or individual crossing charges, unless there is something specifically tied it to improve those services, I don't think we should discuss putting any fees on or increasing any existing fees.

Mr. CONDIT. Mr. Stein do you understand the question once you put the fee on, in my opinion and Mr. Schwebel's opinion, it will never go off and probably will go up?

Mr. STEIN. I think it depends on what happens to the economic situation of the country as a whole. Perhaps in 15 years when Congress will successfully have eliminated the Federal deficit and there is a surplus available, perhaps in 2050 you will eliminate the crossing fee.

The ports of entry are designed to control illegal entry through the borders. People moving in from a neighboring country have to establish their legal right to move through that port of entry. There is a screening process designed to bar those who are not entitled to entry or who are trying to smuggling in contraband.

I was on the border in San Diego 2 weeks ago. I was at the San Ysidro port of entry. In 25 minutes I saw 500 pounds of marijuana confiscated and 20 vehicles and 15 people try to move through undocumented. It is difficult to grasp why the border businesses perceive that the economic development of that region is consonant with the chaos and anarchy going on in the hills and valleys or the crime on the bridges. All those need to be cleaned up. The revenue has to come from somewhere. This is part of the solution.

Mr. CONDIT. Mr. Pegg, your criticism of the fee is because it goes into the general fund. Would you be supportive if the border toll fee were used to pay only activities for the Border Patrol or Customs or what have you?

Mr. PEGG. I would be more inclined toward it, but again, I don't think we need—we would rather not see a border fee at all and certainly not unless it was tied to directly improving service. I think Mr. Stein just made a good argument with regard to why there should not be a fee. Why should legal crossers be paying to enforce or provide screening for illegal crossers? Isn't that part of the national policy that should be borne by everyone?

Mr. CONDIT. OK. I will yield to Ms. Ros-Lehtinen. She may have an opening statement or have questions.

Ms. ROS-LEHTINEN. I don't have any questions for the panelists. It was excellent testimony. Certainly there are very strong antirefugee, antiimmigration feelings I would say in the U.S. Congress today. I think that sentiment has grown even stronger obviously after the handling of the Sheik visa and the World Trade

Center bombing. Certainly some serious reforms need to be in place. They are called for and perhaps this border crossing fee is one such reform.

I am going to withhold my opinion on that until I get more information on it. But most of the immigration reform packages that are being discussed informally or formally seem to be bordering on the hysterical and rather extremist in their views.

As a Cuban refugee, it saddens me to hear such discussion in the U.S. Congress. Even in my own communities some Cuban Americans say no more, no matter for what reason. It is incredible to me. I hope we use caution and not let the heat of the moment or the passion of the hysteria of the argument sway us in this very sensitive issue of immigration reform. No one doubts that illegal immigration is a very real problem in the United States. But I hope we would use real caution and not rush into action without looking at all of the ramifications that our actions will take.

Like I say, I look forward to hearing more about this issue before I form an opinion on whether this could be helpful or not.

Just one comment about Mr. Nowak's testimony that I found exceptionally repugnant to me personally and that is that BALANCE advocates population control through replacement level fertility, two children per couple. That kind of advocacy is in place in a very extreme manner in China and other countries. I hope that we don't get to the level of talk of immigration reform here in the U.S. Congress that ever reaches that stage in the legislation. I look forward to knowing more about this issue. I congratulate you for bringing it up for subcommittee discussion.

Mr. CONDIT. Thank you Ms. Ros-Lehtinen.

Mrs. Thurman.

Mrs. THURMAN. During the testimony from Senator Feinstein she gave us a fairly good outline of the kinds of problems illegal immigration has created in the State of California. As I said, we recognize the problems in Florida as well. But with your city in particular and with your State, do you know what the cost is?

Mr. FRANCIS. I don't know the cost in dollars. As I said, about 20 percent of my city budget is impacted by illegal immigration. We are trying to determine the number of people in our public housing. We have a huge public housing agency. We are not sure exactly how many people are citizens in that housing agency. The chairman told me, he said we could have as high as 80 percent of the people in our public housing who are not actually citizens.

Mrs. THURMAN. Mr. Schwebel, let me ask you about the competitiveness of American business to Mexican business at that point. One of the things that has always concerned me in the debate about the Federal deficit is that in the mayor's situation there are added expenses for Medicaid and housing and other kinds of issues.

Business is being asked to pick those costs up. Is it fair for us not to have some way of looking at this so our deficit does not grow larger and their deficit doesn't grow because the American businessman is put into an awkward situation.

Mr. SCHWEBEL. This is a national problem, not just a regional problem. We tend to think, those of us who live and work on the border, that the quick response to any type of trade issue between

us and Mexico seems to be at this point, let's just tack on a new cost or a new fee.

We get concerned about that very much. A little change like that, whether it be a 25 cent or \$1 or \$2 change, it does impact our ports, our region which, with the exception of El Paso and San Diego, are communities with less than 200,000 population. So we are saying this is a national problem not just a regional problem.

Mrs. THURMAN. We recognize that. If you look at what happened in the House a couple of weeks ago with the additional Border Patrol at a cost of \$60 million which adds to our deficit, probably on Thursday and Friday we will see big fights on the floor about how we are going to reduce this and that and cut spending. We have been wrestling with how to deal with paying for a service.

I think these are some considerations that we are trying to make.

Mr. SCHWEBEL. Having worked on the border, I am a banker by profession, but we look at the return. What we are looking at in our particular case is what we are spending and the resources allocated based upon the return that our country gets from this trade. There is a disparity there. It has been brought up. If you look at what the duties that are collected by Customs are versus the budget that Customs is allocated, I think it merits for you to compare and see what kinds of resources or funding is allocated for that operation when you try to determine what it costs for INS to run their operations and ports of entry versus what they receive.

But if you look at it from the total perspective, not just what one particular fee is going to do for one particular issue, I think when we begin to look at that scope from that perspective I think we can better understand the limitations some of these agencies have been working with. We agree that the Boarder Patrol, INS, and Customs and the Department of Agriculture are actually having an impact on the cost that it takes to administer it, to run the operations does not fit in for what they have being allocated.

Mrs. THURMAN. Let me say something about agriculture. There was an article a couple of weeks or months ago, on agriculture inspections in Mexico. It certainly brought some concern to people who might eat beef. It was the kind of cattle being imported, particularly with the screw worm tuberculosis and other diseases that, excuse my pun, makes me think we should be beefing up inspection in agricultural areas.

The same thing is happening in Canada. The cattlemen are very upset about this. If Mexican citizens can't afford the dollar, what do they buy?

Mr. SCHWEBEL. Well, already there are customers from Mexico who are spending about, it is estimated, 15 cents on every dollar that we export and it comes back in what they spend in U.S. products. The Mexicans, in our case along the border, the Mexicans are the majority of our buyers on the U.S. side, not only of U.S. products, but that creates the economic activity on our side of the border.

Mrs. THURMAN. You think the dollar would stop that?

Mr. SCHWEBEL. Yes, I do believe that once you begin to impose one fee or another fee and we already have a number of other fees. We started with one and I think Customs said today there are 78.

We generate \$500 million off this fee. Let's go ahead and tack on another 25 cents because it was very successful. Let's tack on another 75 cents and it is \$2.

The point I am making is that once you begin to impose the user fees and you tack that on to the cost of doing business, the consumer is the one that bears the costs. All of us are customers. That is what I am talking about when you talk about \$1, \$2, or \$10. It does impact one way or the other the consumer.

Mr. FRANCIS. May I answer that, Mrs. Thurman? The average, and this is a bad word in Washington, the average maid in Morelos makes about \$50 a week, about \$10 a day. They can live on that over there. It would be \$2 a day because that is what it will be if we impose a dollar.

The average person who crosses to shop in our stores from Juarez who works in Juarez is making about 60 cents an hour. A \$1 fee is a major part of their money. They may come over to spend \$2 or \$3, but that is a lot of money.

Mrs. THURMAN. There was testimony earlier in fact from Senator Feinstein saying some of these concerns could be worked out. You could have a discount or something of that nature for someone of that nature who comes to work. Are you shaking your head, no?

Mr. FRANCIS. I don't think you will ever see that.

Mr. SCHWEBEL. You have to understand that a dollar for a Mexican is a lot more than a dollar to us. When you say a dollar to us, that may not mean anything, but when you begin to add \$1 or \$2 to some of the Mexicans who will come and shop on the border or anywhere in the United States, Dallas, Houston, whatever, they do have to think about that cost.

Mrs. THURMAN. I yield to the chairman.

Mr. CONDIT. Mr. Francis, were you saying a maid makes \$10 a day on the United States or Mexican side?

Mr. FRANCIS. On the United States side.

Mr. CONDIT. That is against the law, isn't it?

Mr. FRANCIS. That is right.

Mr. CONDIT. If the people on the border benefit from that, then the people on the border should pay for it. I cannot pay \$10 a day. First of all, it is against the law, not to even speak to the morality issue. I am stunned.

Mr. FRANCIS. It blows your mind. It blows our minds, too. We are sitting there as the impact zone. They will come north as they have been. We do not create more jobs in the interior where they can make more money and the difference in level between the two economic stratas. They are coming across, sir. We wish they were not.

We are very much against illegal immigration, but separating out the illegal and legal migration back and forth across the bridges is an almost impossible task, sir.

Mr. CONDIT. I don't find it offensive to me at all if you are paying \$10 a day for a maid that the people who hire this individual pay another dollar for the border crossing.

Mr. FRANCIS. My point was that the people coming across as these maids are, are not going to change getting \$10 a day. They are going to come across the river illegally. That is the problem. We have a better chance of controlling immigration if they will

come across the bridge as if they wade across the river. That is my point.

Mr. CONDIT. You think a dollar fee would instigate more illegal entry?

Mr. FRANCIS. There is no doubt about it.

Mrs. THURMAN. But if the money goes toward more Border Patrol then you may have less immigration.

Mr. FRANCIS. We will have some less.

Mrs. THURMAN. How many more do you think are coming in?

Mr. FRANCIS. Do you mean illegally?

Mrs. THURMAN. Both legal and illegal through the Border Patrols. Does this go up significantly? Is that what you are saying?

Mr. FRANCIS. My opinion is, short of putting a fence on the whole border, I just added 14 percent to my police department this year because of some of these problems, and I will make no significant impact. Additional officers do help. I don't think the committee is aware, but in my downtown we have dual patrols, one Border Patrol agent and one city police officer. I don't think we can put enough police officers on to stem the tide in a major way because of the job situation in the United States versus Mexico.

My point is, I bring the maid situation up because the dollar—I would rather try to control it. We would like to keep illegal immigration to zero. When they come across the river is when we have our problems illegally. If they come across the bridges we have fewer problems.

Mrs. THURMAN. Mr. Stein.

Mr. STEIN. I think El Paso is a wonderful town. Anyone who visits there is very lucky. I did not mean any disrespect. We have heard from agricultural growers for years that anything that adds to their costs, including the requirement to hire legal workers or guest workers, will be passed along to the consumer.

The reason that California is now in such a financial crisis is that illegal immigration operates essentially as a labor subsidy. In these jobs, it is true that there are resident commuters who go back and forth to El Paso and then use it as a stepping stone and move to larger cities. Support of the Immigration Service, Border Patrol, the budget is \$1 billion already now. Labor displacement, SSI, Medicaid, Medicare—these costs are being borne now by the State and local taxpayers.

Even though we may pay a little less for a head of lettuce, ultimately there is no free lunch in this business. That is why we think the economic arguments are relatively shortsighted.

Mr. SCHWEBEL. First of all, I don't have a maid.

Mrs. THURMAN. Neither do I.

Mr. SCHWEBEL. We were talking about the illegal immigration, if we encourage it by allowing this kind of process of paying a \$10 fee, then we will never resolve the problem, I agree. The point is that that is why we need to have the resources and we need to create the economic vitality to stop that from happening. Those individuals are looking for a better standard of living and we are not attaching those employer sanctions. We are not having those programs to punish those individuals who break the law and break the immigration laws.

When are we going to start doing that to really put the fear of God in individuals that this is a major problem in this country and therefore that is what I believe should be one of the key things we should focus on. When we talk about resources, the resources should also include those necessary for employer sanctions, these individuals who actually hire these individuals knowing that it is against the law.

Mrs. THURMAN. All they have to do is come up for confirmation before the Senate.

Mr. CONDIT. Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. Mayor Francis, is there anything in the laws of Texas that prohibit the city of El Paso from levying a fee on 18-wheel trucks for damaging your streets?

Mr. FRANCIS. No, sir, there is not, but there is a question and our city attorneys have asked, because this is international trade, whether there might be some Federal problems with that.

Mr. HORN. As long as you treat everybody equally, what is the problem? If a Texas trucker or California trucker comes there, doesn't even cross the border but brings goods in your city damaging whatever your weight load is—

Mr. FRANCIS. We don't levy nor does any State I know of levy a fee, per se, as trucks cross the border. But there is licensing fees.

Mr. HORN. Also, what streets you can go on. You can prohibit deliveries at certain hours.

Mr. FRANCIS. The bridges dump into our city streets. The city attorneys said we could have a problem levying fees on the Mexican trucks coming across the bridge. We would have to do it at the impound area because they scatter at that point.

Mr. HORN. If you had a way to levy fees on people who violated your weight limits and you treated everyone equally, I don't see what the problem would be.

Mr. FRANCIS. We are asking that we control it with the consent of the Federal Government in case there is a legal problem.

Mr. HORN. What is your teenage youth unemployment in your city?

Mr. FRANCIS. About 28 percent. We have roughly 10 percent unemployment in El Paso.

Mr. HORN. What is your estimate of the teen immigrants holding jobs that teenagers have normally held, McDonalds, bus boys, and bus girls?

Mr. FRANCIS. I do not have that information. It is a problem of determining who they are. My wife is a school teacher. We have to provide education. We cannot ask them where they are from.

Mr. HORN. Let me tell you the data in my part of California. It is like center cities everywhere. It has been for 20 years 40 to 55 percent unemployment for teenage youth and the problem is the illegals who come in and push them out of the jobs. It is because the employers can control them. If they try to join a union, the employers call the INS. So this scandal has been going on for decades. The will has not been there to do anything.

You gave your example of \$10 a day for a maid. No one else pays that for a maid.

Mr. FRANCIS. I think there are a lot of people now paying Social Security on these people.

Mr. HORN. Mr. Chairman, I would just like to insert in the record a 3-page statement I made in 1980 on this subject. Not much progress has been made. Again, I advocate the counterfeit-proof Social Security card if you had wanted to get serious.

Mr. CONDIT. Thank you. Your statement from 1980 will be a part of the record.

[The information follows:]

Excerpt from THE TARNISHED GOLDEN DOOR

"The Tarnished Golden Door"—Civil Rights Issues in Immigration  
A Report of the United States Commission on Civil Rights, September 1980

## Additional Statement by Vice Chairman Stephen Horn

### CIVIL RIGHTS IN IMMIGRATION

Nothing is more pitiful than a nation which stands helpless and immobilized when it should meet the needs of its own citizens and lawful residents. Yet that is exactly what is happening with respect to the lack of an effective national policy concerning the illegal aliens who are coming to this country to seek employment and a better life for themselves. Calling them by the euphemistic phrase "undocumented workers" does not make their entry any less illegal nor reduce their impact on employment opportunities for our own citizens. As Secretary of Labor Ray Marshall noted on December 2, 1979:

If only half, or 2 million, of them are in jobs that would otherwise be held by U.S. workers, eliminating this displacement would bring unemployment down to 3.7%, which is below the 4% full-employment target set by the Humphrey-Hawkins Act.<sup>1</sup>

It should be clear that the illegal alien problem is not simply an Hispanic problem and is not limited to the five Southwest States; it is a national problem.<sup>2</sup> If one examines the employment situation in the North-Central States, in New England, and along

the eastern seaboard, one can readily find thousands of non-Hispanic illegal aliens widely employed in both the large industries and the small businesses of those areas. As the Vice President's Task Force on Youth Employment concluded: "Estimates on the percentage of undocumented workers in the U.S. labor force range from 2 percent to as high as 10 percent."<sup>3</sup>

There is no doubt that the illegal aliens who are employed in the garment firms of Los Angeles, in the restaurants of the District of Columbia, or in the automobile factories of Detroit are hard working. Often they seek not only a better life for themselves, but also for those they have left behind in their native lands—families and relatives to whom they frequently send funds.<sup>4</sup> But as a matter of American national policy, citizens and lawful residents should not be left unemployed because the governments from which these illegal aliens flee are not meeting the economic needs or facing the population problems of their own people.

This Nation should be particularly concerned with the distressing working conditions in the low-

<sup>1</sup> Harry Bernstein, "Illegal Aliens Cost U.S. Jobs—Marshall," an interview with Secretary of Labor F. Ray Marshall, *Los Angeles Times*, Dec. 2, 1979, p. 1-1.

<sup>2</sup> Very simply, the estimate of illegal aliens is uncertain except that it is at least several million. Lawrence Fuchs, Director of the Select Commission on Immigration and Refugee Policy, has claimed that there are no more than 6 million undocumented workers and that no more than 50 percent of them are Mexican. Prof. Vernon M. Briggs, Jr., of Cornell, has also estimated that "it is likely that Mexicans account for no more than half of the annual flow of illegal aliens into the country." Vernon M. Briggs, Jr., "The Impact of the Undocumented Worker on the Labor Market," in *The Problem of the Undocumented Worker* (Albuquerque, N. Mex.: Latin American Institute of the University of New Mexico, n.d.), pp. 31-38, p. 33. In August 1978, the *Denver Post* reported a belief of the Mexican Ambassador to the United States, Hugo B. Margain, that without guest worker programs such as the so-called bracero program that there could be

as many as 10 million illegal alien in this country. ("Out Undocumented Aliens—Part Four, A National Debate What To Do?" in *Ensign Magazine*, the Sunday magazine of the *Denver Post*, Aug. 6, 1978.) Estimates of illegal aliens in the United States have ranged from 3 to 12 million. For 1975 Lexlo Associates estimated 8.2 million illegal aliens, of whom 5.7 million were estimated to be Mexican. The U.S. National Commission for Manpower Policy concluded that the average illegal alien population in 1977 was probably within the range of 3 to 6 million persons.

<sup>3</sup> The White House, *A Summary Report of the Vice President's Task Force on Youth Employment* (1980), p. 19.

<sup>4</sup> In the case of Mexico, it is estimated that the return of American dollars by illegal aliens in the United States is the largest dollar earner for Mexico—ahead of the dollars gained from American tourism. Wayne A. Cornelius, "Illegal Mexican Migration to the United States: A Summary of Recent Research Findings and Policy Implications," p. 14.

skill, low-wage industries in which illegal aliens are employed and with the resultant denial of job experiences for our own citizens. It is a serious problem when entry level job experiences are denied to inner-city youth because these jobs are increasingly occupied by illegal aliens subject to the exploitation and fear created by unscrupulous employers and sometimes connived in by labor unions. Some have argued that Americans will not fill low-status, low-wage jobs and therefore illegal aliens are necessary if the work is to be done.<sup>8</sup> That is simply untrue. Such "we need them and they are happy here" arguments were last heard to justify plantation slavery before the Civil War.<sup>9</sup> The fact is that in each occupational category a majority of the positions are filled by American citizens. If workers are truly needed to perform specific seasonal tasks, then guest worker programs such as those utilized in various European countries might be instituted. Under such programs there could at least be a regularized procedure to assure the entry of needed workers to perform specific types of jobs (but not limited to a specific employer). Such a procedure would also ensure full payment and fringes, health clearance, and other accepted American practices too often neglected as some employers victimize the illegal alien as well as the broader public interest. It is clear that the problem of illegal immigration is a political as well as a human and a legal issue. That neither the Congress nor the President has faced these issues is tragic.

The Border Patrol has a difficult and dangerous task. It is understaffed and its members are underpaid. As one careful student of the subject has observed "...the legal immigration system of the United States has been rendered a mockery. . . ."

There is big money and individual misery in the smuggling of illegal aliens across the American borders. Because our borders are largely unpatrolled and most illegal entrants can melt into our society, we are an attractive target, especially for those who come from Mexico where the government has failed to address the needs of its own people through either

a sound economic or population policy. It is hoped that some of the billions of dollars now available within Mexico as a result of the development of its petroleum resources will go toward the development of labor-intensive food processing and textile industries in the northern states of that nation. Certainly the American Government has a stake in also providing appropriate assistance to encourage such a development. Increasingly unemployed American workers should not be the only form of foreign aid available to Mexico.

For those who seek to count illegal aliens to increase their political power, perhaps it would be wise to recall *Mathews v. Diaz*, 426 U.S. at 82, in which the Court noted that "Congress has no constitutional duty to provide all aliens with the welfare benefits provided to citizens. . . ."

Residents from my own State of California certainly stand to profit from counting illegal aliens and thus gaining a few more seats in the House of Representatives. But should foreign citizens—many of whom are transient and subject to deportation—be the basis of our representative process? Is it fair to the legitimate political interests of citizens in the North and the East (where there are probably proportionally less illegal aliens than in the Southwest) not to have their votes counted effectively in the formulation of national policy through that representative process simply because some States happened to have an enhanced apportionment as a result of the substantial presence of illegal aliens?

On August 4, 1977, the Carter administration proposed a package of legislative proposals to reform our immigration laws. One of the key recommendations was the call for employer sanctions to make illegal the hiring of so-called undocumented workers. Various ethnic communities quite properly expressed concern that employers might be reluctant to hire those with a shade of skin other than white for fear that they were undocumented workers and illegal aliens. In brief, the administration left out the essential element which is key to a fair employer sanctions policy and that is what some

<sup>8</sup> The findings of the 1970 National Longitudinal Survey (NLS) of Youth Labor Market Experience refute this myth. "Substantial numbers of youth are willing to work at less than the minimum wage. This extensive longitudinal study found that the youth unemployment rate (38.8% for black youth and 16.6% for white youth) was 37% higher than had been shown by the Current Population Survey monthly sample." *The New York Times*, Feb. 29, 1980, pp. A1 and A14.

<sup>9</sup> Professor Briggs has commented that, "No U.S. worker can compete with an illegal alien when the competition depends upon who will work for the lowest pay and longest hours and accept the most arbitrary working

conditions. Hence, it is self-serving for employers to hire illegal aliens and claim simultaneously that no citizen workers can be found to do the same work. In the local labor markets where illegal aliens are present, all low-income workers are hurt. Anyone seriously concerned with the working poor of the nation must include an end to illegal immigration as part of any national program of improved economic opportunities" (emphasis supplied) Vernon M. Briggs, Jr., "The Impact of the Undocumented Worker on the Labor Market," in *The Problem of the Undocumented Worker*, p. 34.

<sup>10</sup> *Ibid.*, p. 32.

have described as a "secure" or "counterfeit-proof" social security card.\* I agree with that criticism. If we are to deal with reality, and not find ourselves still discussing this matter a decade from now while millions of American citizens continue to be denied job opportunities, then the establishment of such a secure and counterfeit-proof social security card for any who wish to be employed must be a first order of business on the national legislative agenda.

\* Gerda Biskales, program associate for Population/Immigration, National Parks & Conservation Association, has made an effective case for such a card in "The Case for a Secure Social Security Card" (September 1978), 18 pp., available from National Parks & Conservation Association, 1701 15th Street, N.W., Washington, D.C., 20009. She notes that, "The Social Security card and the driver's license enjoy primary credibility as general purpose identification . . ." (p. 9) "Forty-four States now affix a photograph of the driver on the license adding to the security of the document . . ." (p. 10) Observing that 41 State jurisdictions now issue "impressive and official looking identification cards to non-drivers," Biskales adds that, "The dreaded I.D. has been brought to through the back door, by popular request" (p. 11) She observes that "it is almost inconceivable how anyone could be damaged by revealing [bona fide legal residency in the United States], on the contrary, it is universally acknowledged to be a highly advantageous quality, one that many millions all over the world are desperately trying to take on as their own" (p. 14) She favors an upgraded Social Security card" as "the least drastic alternative" (p. 14) and recalls that in July 1973, the Report [Records, Computers and the Rights

With this exception, I have supported the recommendations for due process which we have made in the attached report—although at times I have felt that some of our proposals, if enacted, should be best described as "the Immigration Attorneys Relief Act of 1980."

/s/

Stephen Horn

of Congress) of the [HEW] Secretary's Advisory Committee on Automatic Personnel Data Systems "provide further assurance that Social Security numbers were legislatively intended by the Congress to be available for use in preventing aliens from working illegally and public assistance beneficiaries from receiving duplicate or excessive payments" (ibid., p. 12). Another strong advocate of "an identification system which would apply to all workers" is Secretary of Labor Ray Marshall. He believes that "a noncounterfeitable Social Security card could be issued to all workers changing jobs and to all newly hired persons, and this could be done for under \$200 million . . ." Harry Bernstein, "Illegal Aliens Cost U.S. Jobs—Marshall," an interview with Secretary of Labor F. Ray Marshall, *Los Angeles Times*, Dec. 2, 1979, p. 1-1. Considering that *The United States Budget in Brief—Fiscal Year 1981* indicates (p. 52) that "unemployment recipients are estimated to average 2.9 million per week in 1980 and 3.4 million per week in 1981," with outlays for unemployment compensation estimated to increase \$3.2 billion "from \$15.6 billion in 1980 to \$18.8 billion in 1981," a \$200 million investment to open up perhaps millions of jobs for citizens and permanent residents is a very cheap investment indeed.

Mr. CONDIT. I would like to ask the mayor again, your solution to this is that we should put a fee on trucks. I think you put a fee on trucks, your citizens and consumers pay it anyway. They jack up the cost of whatever product they have in there. So how do you protect your citizens if you put it on the trucks?

Mr. FRANCIS. I want the testimony to be clear on this matter. What I am saying is that we have a very serious illegal migration problem. I don't think it is going to be controlled by a fee at the border. You want to hire more and more patrol. That will help, but it will not be nearly enough. You cannot hire enough. If you are looking for more revenue to support what you want to do, since my basic testimony is that it will not help, but we could use more Border Patrol agents, then let's put it on the commercial traffic.

Mr. CONDIT. If you put it on the commercial traffic commerce just passes it on to the consumer.

Mr. FRANCIS. That is right.

Mr. CONDIT. Like some of my colleagues I have not decided whether this is good or bad. My point is that it seems to be easier if the burden is spread out in a smaller amount amongst a larger group of people. I think that is more fair, if fair is important to you, than putting it on commercial trucks who then target a certain consumer. Whatever they are hauling they are just going to jack up the price.

Mr. FRANCIS. I like to put fees in my budgets against the entity that is causing the problem. My problem, of course, is trucks. I was looking for money. That is where I am coming from. Your need is for additional agents.

Mr. CONDIT. Not only additional agents, but a user fee is used to paid for whatever the user uses. This would be a direct cost for crossing the border. That is what it would be. People who go across would contribute to offset not only what the future cost is, but what it is today. That is what a user fee is. You use it; you pay for it.

I understand your point. I want to ask you about the trucking thing that Mr. Horn also raised. You are telling me that you have trucks that come across now that have illegal weights and they are allowed to continue on without some citation or without unloading the truck?

Mr. FRANCIS. We have no weighing location, moving scales, they are called. For example, the mayor of Laredo, the average weight of 60,000 pounds—the Mexicans come across with 100,000 or 120,000 pounds. This is the problem. If we can get clarification from the State Department that we can stop these trucks, we may do that if we can find an area where we can run them through a scale.

Mr. CONDIT. They don't scale them as they are coming in?

Mr. FRANCIS. No.

Mr. PEGG. In California we do, perhaps without the State Department's permission but we examine the trucks when they come across. The Highway Patrol inspects them not only for weight, but for the safety requirements. If they don't meet them, they don't come any further.

Mr. FRANCIS. They dump them on I-5?

Mr. PEGG. No, it is the Otay border 10 miles east.

Mr. CONDIT. Do you think there is any way this committee can be helpful to you in that trucking matter?

Mr. FRANCIS. We would like to have an agreement with the Customs primarily to give us an area. They have an impound area where we could put a moving scale in and we could start weighing these trucks. We would be willing to do that.

Mr. CONDIT. You would be willing to do that at your own cost?

Mr. FRANCIS. Yes.

Mr. CONDIT. We will do some checking on that.

Mr. FRANCIS. We will have to have permission from the State of Texas.

Mr. SCHWEBEL. The Border Patrol has been addressing this for a number of years. California and Arizona have scales at the point of entry and they will not allow the overweight vehicles to enter. In Texas at the bridge you do have the scales. In our case in Laredo we have the scales and we will protect it. What is being recommended is the enforcement of certain local ordinances that do not allow the vehicles that are overweight to circulate in their cities.

You have specific trade routes. We must remember that some of these bridges have been around for a number of years. When they were first built, they were built to accommodate certain weights of vehicles, commercial, as well as domestic vehicles. Therefore, as you get older and older bridges and heavier and heavier vehicles on our highways which the trucking industry is asking for, then that creates a burden on the infrastructure of our bridges, our streets and our communities. It is those ordinances or those laws that would place those, I guess, businesses or users who violate those weight limitations, that is where we can collect some of these fees to offset some of these costs which would be a lower number of individuals versus everyone.

Mr. CONDIT. Does anyone else have a comment on that? I would like to address the north-south differences for just a moment. You heard that INS has dedicated a commuter lane in Washington State. In your opinion, would a program like that work in the southern border.

Mr. PEGG. There was an expedited lane in San Ysidro for a number of years, but the problem was everybody got in that lane. The criteria for qualifying you to go through that was vague at best. There were always some questions raised about elitism and equal access and so forth. We have looked at the Blaine experiment with some interest and would like to see something like that along the border.

The INS and Customs have some reservations because of the difference in terms of the ability to qualify people to use it. But we would like to see something like that. Actually, if all 24 lanes in San Ysidro were open, there would never be more than a 10-minute wait even at peak hours. That is one way of providing expedited service and equal access, just open up the existing facilities.

Mr. CONDIT. Any other comments?

Mr. STEIN. Blaine could work in most points of entry. San Ysidro is an extraordinary unique exception. You can certainly use the bar code and electronic scanner if people will pay the fee in a lump sum and every time I go across you deduct it. You would have to have

a visual inspection. I think ultimately the practicality of it can be worked out even at San Ysidro.

Mr. FRANCIS. Those decals and bar codes are one of the biggest counterfeiting businesses we have. As soon as you have that, they will be in business tomorrow.

Mr. SCHWEBEL. On the southern border it would not function the way it does in Blaine. The number of people in the city like Laredo where we have about 30 million people who cross our border and we have had three bridges and those bridges have northbound, each, four lanes but not all four lanes are being planned, that you would take one particular lane away thus creating additional congestion and control problems. That has been our basic contention with regard to the commuter lanes.

Mr. CONDIT. Obviously there has been great disagreement over the border fee issue today. Mr. Schwebel, you say they would be the ones that would be damaged by a fee. Some of us feel that those areas suffer the greatest expense of illegal immigration. They have a bit of reluctance to pay up their higher taxes.

Since there is such a disagreement on how we become reimbursed for the cost of this, do you have suggestions if we don't charge a border fee how we come up with revenues?

The mayor has very candidly and honestly suggested we put the fees on commercial trucks. Do the rest of you have suggestions?

Mr. PEGG. If you put some sting into the enforcement of illegal immigration you have an excess of \$5 billion in expense nationally right now that could be reduced right now to offset some of the costs in the way the costs are paid because of the concentration of the illegals, the concentration of California. Californians pay a disproportionate share of this problem. There is great savings that could be obtained by putting some teeth into the immigration laws that exist today and reduce the number of illegals.

It is some of the comments made earlier relative to wanting to keep an open border, it is an economic issue for us in San Diego. When it gets to the point where legal residents of the United States have to wait or cannot obtain services because the local and Federal Governments are obligated to provide services to illegal immigrants, I think putting some teeth in these laws is one way not only to solve the problem, but also to provide the funding to do it.

Mr. CONDIT. Are you prepared to tell me what you mean by teeth in the law?

Mr. PEGG. Some of the issues that Gerry brought up in terms of employer sanctions relative to illegal immigration. You are asking a question that I am not qualified to answer. I am a bit out of my league in that regard, but it seems to me there are ways.

Mr. CONDIT. My point is putting teeth in the law in the short term would be an expensive proposition. I am trying to figure out, as well as my colleagues, how you pay for it. That is basically it.

Did anyone else want to comment on if you are not for a border fee, what are you suggesting we do?

Mr. SCHWEBEL. I think we need to look at the cost of our border operations and what we also generate in revenue from that trade. If it is disproportionate, then we need to make it fair and equal. I don't think it has been happening right now. We cannot come up with what it costs in order to determine what we are going to re-

ceive to run those operations. If you look at the management of those operations, I think you will find there are some funds there that might be available to accommodate some of these programs that we are talking about, including Senator Feinstein's request for additional Border Patrol personnel.

Mr. CONDIT. Where do we find them?

Mr. SCHWEBEL. If you look at what is generated from the duties of Customs in particular and you look at the budget that Customs has for operations and staffing, then there might be an area there. I hesitate to make a particular comment because I am not sure of the facts in place. This is something that would need to be verified. But it was my understanding, and this is going back at least 2 years ago, that our duties collected amounted to about \$19 billion. Yet, if you look at Laredo, we had duties collected of \$180 million and there is probably more in El Paso. Those are duties collected in those particular ports. But I would venture to say that the amount of funds collected in those ports for staffing and operations do not amount to half or a third of that amount.

Mrs. THURMAN. Based on that statement, I would like to ask our staff to look into that. I would like to see those proportions. I don't know that that is true and particularly after the Senators's statements saying how many enforcement they have done and how much the cost. That is 21 percent of the entire population within the patrol, but they do 50 percent of the enforcement. Before we get too far into this I would certainly like to see those proportions.

Mr. HORN. I agree with my colleague and just that last point of allocation of resources within the patrol versus whatever index you want to use, arrest, detention, to try to get a feel of the internal things, let me say on the general question you seem to be willing to take the customs fee and apply it to the border problem, but you are not willing to charge those using the border for the problem.

Those using the border are Americans who are going to shop, see the other world, who knows. The Mexicans coming this way, mostly illegal, people who are sitting on lists all over the world for 10 years, trying to get into this country legally, but every night we let more into this country illegally because we don't have the will to do something about it. They are moving in either direction across the border and they are making a lot of money out of it in your towns and yours, San Diego and everywhere else, and the people ought to pay some of the bills. It is not Customs' products.

They don't get used to El Paso and San Diego. They go all over the United States. We ought to deal with where the problem is. If the problem is at the border we have to deal with it there.

Mr. CONDIT. My colleague asked that we look into your comment to verify it or not. We will ask Customs for this information and insert it into the record.

Mr. Stein.

Mr. STEIN. Right now we already charge citizens and others when they come in through airlines. We are saying they should be treated like everyone else. No one has ever said the payment of this inspection fee inhibits international traffic. When I drive down the Encinada Highway after crossing into Mexico, I get tagged every 5 miles for about 20 cents.

A number of the studies have shown in order to get better control we have to double or control the internal checkpoints like the one on I-5 near San Clemente. That would be one option.

Another place to look for revenue in the issuance of so-called border crossing cards, they are not charging for them now. It is an exception that we are not charging for the issuance of those border crossing cards. Given the likely increase in the issuance of those cards that is another possible source of revenue.

Mr. FRANCIS. I think that is a valid point. Charging for the border crossing cards is a better point.

Mr. SCHWEBEL. We don't disagree that there are some areas INS could incorporate like the border crossing cards, the fee structure.

Mr. CONDIT. I have a final question. It is a pet peeve of mine. Maybe the mayor can relate to it. Do you have any comments about the way we compensate State and local government for the expenses they might have in that people who come here legally or illegally use our health care facilities and other institutions that cost our taxpayers? The mayor can relate to that. It is a related subject.

Do you have suggestions on how to deal with that issue?

Mr. FRANCIS. If you remember several years ago we had impact fees for the education system for the military. Where we had a big military base, we had impact funds for our education. We, on the border, have been advocating this for the last 10 years at least, where we would like to have some impact aid for issues like health.

At the border conference I made the point that it would be cheaper to address these things in Mexico. Right now I sent a crew to Juarez to spray their sewerage ditch. We spray it at our expense. We need a Peace Corps Program or something. That would keep them from coming across in large numbers just to get the medical care.

Mr. CONDIT. Are there any other comments?

Mr. NOWAK. Governor Wilson asked for about \$1½ billion for the costs in California. I don't know that there is a simple way to do it because you cannot tell immigrants where to live. They live predominantly in five States. I think the way to do it is to reduce it to levels that we can pay for it. If we did that, then the problem would not be so severe.

Mr. CONDIT. Does anyone else wish to contribute? We appreciate your being here. This is a very difficult issue for us. All of you on the panel had to deal with this issue. We appreciate your sharing with us the information you collected over the months and years. If you don't mind, we may send out some additional questions to you in writing and hope you will respond to those.

This is an ongoing process for this subcommittee. We intend to hold a variety of hearings, hopefully, in some of the border areas of the country. We may call on you for some help. We appreciate your participation. You have been very kind.

The hearing is adjourned.

[Whereupon, at 12:25 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]



# APPENDIX

## MATERIAL SUBMITTED FOR THE HEARING RECORD

Gary A. Condit, California, Chairman  
Major Owens, New York  
Karin T. Thurman, Florida  
Lynn Woolsey, California  
Bart Stupak, Michigan

Craig Thomas, Wyoming  
Ranking Minority Member  
Dennis Rose-Leibman, Florida  
Stephen Horn, California

ONE HUNDRED THIRD CONGRESS

### Congress of the United States House of Representatives

Information, Justice, Transportation, and Agriculture  
Subcommittee  
of the

Committee on Government Operations  
B-349-C Rayburn House Office Building  
Washington, DC 20515

(202) 225-3741

FAX (202) 225-2445

August 5, 1993

The Honorable Chris Sale  
Acting Commissioner  
Immigration and Naturalization Service  
425 I Street NW  
Washington, DC 20536

Dear Commissioner Sale:

The Subcommittee's August 3 hearing on border crossing fees revealed a disagreement between the Immigration and Naturalization Service (INS) and the Inspector General of the Department of Justice as to the authority of INS to implement a border fee and other user fees.

This disagreement was also exposed by INS' comments to an audit report (93-15) on INS user fees, which was issued last month by the Inspector General. As you know, the report criticizes the INS for not fully exercising its existing authority to establish fees for services rendered. It cites as this authority Title V of the Independent Offices Appropriation Act, 1952, as amended (the "User Charge Statute") and OMB Circular A-25 on user charges. The report also relies on Section 210 of the 1991 Department of Justice Appropriations Act (Public Law 101-515) as providing INS with authority to charge user fees. This provision will sunset on September 10, 1993, unless extended by Congress.

In order to clarify the basis for INS' position, I would like INS to provide the Subcommittee with a written analysis as to the authority of INS to institute a border crossing charge. As part of the analysis, I ask that INS answer the following questions:

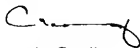
- Did INS have authority during the past three years to institute a border crossing charge under Section 210 of the 1991 Department of Justice Appropriations Act (Public Law 101-515)?
- Does INS have authority to institute a border crossing charge under the User Charge Statute, the OMB circular, and/or any other existing authority?
- If so, does INS have an affirmative duty to charge a border crossing fee?

The Honorable Chris Sale, page two  
August 5, 1993

- If not, does INS have an affirmative duty to seek legislative changes that would allow it to charge a border crossing fee?

I ask that you complete your written analysis as soon as possible and not later than August 19, 1993. If there are any questions, please let me know or feel free to direct them to Audrey Bashkin or Shannon Lahey of the Subcommittee staff. Thank you for your assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary A. Condit", with a stylized flourish at the end.

Gary A. Condit  
Chairman



U.S. Department of Justice  
Immigration and Naturalization Service

Office of the Commissioner

425 Eye Street N.W.  
Washington, D.C. 20536

CO 703.1056

SEP 9 1993

The Honorable Gary A. Condit  
Chairman, Subcommittee on Government  
Information Justice Transportation and  
Agriculture  
Committee on Government Operations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of August 5 concerning the collection of a border crossing fee under existing authorities. We apologize for the delay in our response.

As you know, the Department of Justice's Inspector General and the Immigration and Naturalization Service have differing views on portions of this issue. We are continuing to seek a consolidation of opinion prior to submitting a final response to your questions. We hope to be able to provide that response in the very near future.

Thank you for your patience and understanding as we resolve this policy matter.

Sincerely,

FOR THE COMMISSIONER

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SEP 17 1993

Information, Justice, Transportation, and  
Agriculture Subcommittees

Ralph B. Thomas  
Acting Director  
Congressional & Public Affairs



U.S. Department of Justice  
Immigration and Naturalization Service

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425 Eye Street N.W.  
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The Honorable Gary A. Condit  
Chairman, Subcommittee on Information,  
Justice, Transportation and Agriculture  
Committee on Government Operations  
U.S. House of Representatives  
Washington, D.C. 20515

FEB 25 1994

Dear Mr. Chairman:

Thank you for your letter regarding the Subcommittee's August 3, 1993, hearing on border crossing fees, which revealed a disagreement between the Immigration and Naturalization Service (INS) and the Inspector General of the Department of Justice as to the authority of INS to implement a border fee and other user fees.

In your letter, you asked that INS provide the Subcommittee with a written analysis as to the authority of INS to institute a border crossing charge. As part of the analysis, you asked that INS answer specific questions. These questions and answers are provided below.

**9. Did INS have authority during the past 3 years to institute a border crossing charge under Section 210 of the 1991 Department of Justice Appropriations Act (Public Law 101-515)?**

Section 210(d)(3) of the Department of Justice Appropriations Act, 1991 (Public Law 101-515, November 5, 1990) inserted Section 286(q) of the Immigration and Nationality Act. Section 286(q) provided the Attorney General the authority to establish, by regulation, a project under which a fee may be charged and collected for inspection services provided at one or more land border points of entry.

As a result of this authorization, INS issued an interim rule with request for comment in the Federal Register proposing the institution of per vehicle user fee at selected Ports-of-Entry (POEs). A majority of the comments were opposed to the institution of the fee as proposed by INS. In response to public concern as well as some INS concerns about program implementation which were recently summarized in testimony before the Information, Justice, Transportation, and Agriculture Subcommittee, INS decided to postpone the implementation of a border crossing charge.

Page 2

The Honorable Gary A. Condit

**Q: Does INS have authority to institute a border crossing charge under the User Charge Statute, the OMB circular, and/or any other existing authority?**

The User Charge Statute and the Office of Management and Budget (OMB) Circular A-25 are additional bases for the authorization of the collection of fees and charges for Government services and things of value. The User Charge Statute states that each service or thing of value provided by an agency to a person is to be self-sustaining to the extent possible. The INS believes that providing inspections at the POEs is a service that the Government provides to the public, as well as a crucial law enforcement task. The INS, therefore, believes that the User Charge Statute authorizes charging an inspection fee at border crossings.

**Q: Does INS have an affirmative duty to seek legislative changes that would allow it to charge a border crossing fee?**

The INS believes that in the event that the Administration decides to seek a border crossing fee for providing border port inspection services, it has sufficient authority to institute it without further legislative changes.

Sincerely,

  
Doris Meissner  
Commissioner

## Open-Arms Immigration Policy Hurts Many

Virginia Abernethy, Ph.D.

An important consideration for U.S. foreign policy has been that it should be constructive. The American people clearly support policies which enhance international wellbeing and, wherever possible, alleviate human suffering. Americans assume that our foreign policy -- including international aid and our very liberal immigration law -- has a constructive result.

However, any policy carries a risk of having unintended and unwanted effects. As we continue to give foreign aid, and as immigration into the United States continues to grow, it is time to make sure that their principal effects are constructive. At a minimum, our policies must not harm those very countries that we are trying to help.

Aid which is grandiose by local standards as well as a liberal immigration policy communicate the wrong message. Either policy is likely to be read by couples in the third world as a sign that wealth is abundant and opportunity is beckoning. This interpretation neutralizes economic and environmental information which would otherwise motivate people to exercise marital and reproductive caution.

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\*Please address correspondence to Dr. Virginia Abernethy, Dept. of Psychiatry, Vanderbilt University School of Medicine, Nashville, TN 37232-2647. Dr. Abernethy is author of Population Politics: The Choices that Shape Our Future (NY: Plenum Press/Insight Books, 1993).

Americans who want to do the right thing have traditionally supported a liberal immigration policy. We are a nation of immigrants and only reluctantly question the entitlement of those who come here in search of a better life, as many of us, or our ancestors, did. Now, however, it is beginning to appear that the ease of immigrating into the United States is an incentive for the poor in poor countries to have large families, the very cause of their poverty, unemployment, and environmental wastage.

The signal broadcast by our immigration policy is that we in the United States are unconcerned about resource availability and the environment's capacity to cope with pollution. Its meaning to others is that we will go on welcoming immigration, because we have so much reserve capacity and wealth that it cannot hurt us.

This message reflects neither reality nor the views of most Americans. Yet we let it be broadcast abroad to mislead others. A result is that the United States, acting as a safety valve for other countries' excess population, will increase suffering in the very countries we most want to help.

We risk raising the expectations of the many, many millions, indeed several billion people, who can never expect to emigrate. We must ask ourselves if the better life for those who move justify a possible harm to the far greater number who will never have that opportunity; because "pull" factors, such as jobs and benefits in the United States promote high fertility among those who actually make the move and probably also among those who only think about the possibility.

Conclusions about the effect of our immigration policy -- that millions more will be born both here and in the third world -- are based on recent work by myself, Virginia Abernethy (Professor of Psychiatry -- Anthropology -- at Vanderbilt Medical School) and others and are empirically derived. Developments of the last fifty years have forced critical reexamination of the "demographic transition model."

Assurances that the answer to high fertility is education, lower infant mortality, and a higher standard of living are based on the observation that, by the 1930s, industrialized western countries had low fertility rates whereas other countries had larger family size. The shift in family size in the west was described as a "demographic transition." We were assured that socioeconomic development and prosperity would lower people's preferred number of children elsewhere, with the result that fertility rates would fall as soon as modern contraception became available worldwide.

Unfortunately, clues that the model did not work started to accumulate almost immediately. Time and time again concepts derived from the European demographic transition failed to predict actual developments. But the beliefs had captured the imagination of well-meaning, compassionate people. They do not want to let them go.

In 1975, demographer Michael Teitelbaum wrote of demographic transition theory in these words: "Ironically, its explanatory power has come into increasing scientific doubt at the very time it

is achieving its greatest acceptance by non-scientists" (Teitelbaum, M. 1975. Relevance of demographic transition theory for developing countries. Science 188, 420-425). However, concepts pertaining to the demographic transition are not put to rest. As recently as spring, 1990, the president of the National Academy of Engineering, Robert M. White, editorialized, "History shows that without economic development there is no hope of changing the population patterns that are the root cause of global pressures (White, R.M. 1990. Editorial. Issues in Science and Technology, 1(3), 6). Vice-President Albert Gore is another who repeats the conventional wisdom. See his 1992 book, Earth in the Balance. It is repeated again in Gerard Piel's review of Preparing for the Twenty-First Century even though the author, Paul Kennedy, presents contrary evidence and comment.

But if well-meaning people want to help, they had best take a fresh look. Demographers Ansley Coale and S. Watkins show that, even in Europe, low fertility did not follow (i.e., was not caused by) declining infant mortality (The Decline of Fertility in Europe. Princeton: Princeton University Press, 1986). What is, is often not the same as what one wants. Self-deception is unlikely to help anyone when it becomes the ground for policy. Concepts arising from the demographic transition in the industrialized world are what everyone wants to believe; and their application have almost cooked our goose.

For example, African fertility, which had been moderate, zoomed up to six and more children per woman at the same time (the

1960s) as infant mortality was dramatically reduced, healthcare availability increased, literacy for women as well as men was rising, and general economic optimism pervaded more and more sectors of their society. All told, Africa received three times as much foreign aid per capita as any other continent, and African fertility rates climbed to where they also surpass all others.

A project in Khanna, India was also revealing, showing that even the most comprehensive of family planning programs does not necessarily lower fertility. For six years, a group headed by British gynecologist John Wyon provided a whole village with education, nutritional supplements, public health and direct medical care. Eventually, everyone understood and had access to contraception, villagers had positive attitudes toward the health care providers and family planning, and infant mortality had fallen way down. But the fertility rate stayed way up. (Wyon, J., and Gordon, J. E., The Khanna Study: Population Problems in the Rural Punjab, Harvard University Press, Cambridge, 1971).

Wyon's group soon figured out why. The village people liked large families. Khannaians were delighted that now, with lower infant mortality, they could have the six surviving children they had always wanted. The Wyon project, with all its resources, probably reinforced the preference for large families because it seemed to prove that extra children were affordable.

Results so contrary to the established demographic transition model raise questions; what might be other instances of high and rising fertility?

One finds that optimism and fertility both rose sharply in India and Algeria after these countries gained independence from colonial powers. In Cuba, Fidel Castro's populist revolution against Fulgencio Batista -- promising redistribution of wealth -- was also followed by a significant increase in the fertility rate. Land redistribution in Turkey promoted a doubling in family size (to six) among formerly landless peasants. In the United States and much of western Europe, a baby boom coincided with the broadbased prosperity of the 1950s. More water wells for the pastoralists of the African Sahel promoted larger herd size, earlier marriage and much higher fertility. The introduction of the potato into Ireland in about 1745 increased agricultural productivity and caused a baby boom. And still earlier, introduction into Europe of the stirrup popularized horses, which facilitated deep plowing and, with the further introduction of beans, set the stage for triple cropping. This more productive and nutritious agriculture led Europe out of the Dark Ages to economic recovery, and thence on to a tripling of population size between 1000 and 1200 A.D. (Abernethy, V. 1993. Population Politics: The Choices that Shape Our Future (NY: Plenum Press/Insight Books).

The consistency of these effects seemed dramatic. But to see if they lead to a useful explanation of population change, the next step was finding instances of falling fertility. If optimism and prosperity made fertility rise, did perception of harder times make it fall? Well, yes.

- The 1930s was itself a period when declining fertility rates were caused by economic depression. As a multitude of American families hit the soup kitchens and the road in these desperate times, women delayed marriage, on average, until 24 years of age. With stagnation in real personable disposable income since the early 1970s, native-born American fertility again declined until, today, women again marry at 24 years of age on average and most delay childbearing

- The U.S. baby boom of the 1950s petered out in the early 1960s, when people began to feel stressed and jobs were just beginning to get harder to find; after the 1973 oil shock, fertility fell to 1.7, well below the replacement level rate of 2.1 children per woman.

- In Ireland, land became scarce relative to the rapidly growing population by about 1800, whereupon fertility retreated to its low, prepotato level. By 1830, only about half of women married while they were still of prime childbearing age; so for every mother of a large family, many remained childless. (Nevertheless, the momentum of growth carried the population beyond Ireland's sustainable carrying capacity, and blight to the potato crop precipitated a famine which lasted from 1845 to 1854.)

- In the Sudan and Burma today -- where the economy is chaotic and essentially no modern contraception is available -- fertility has fallen by 20 percent because here, too, couples have begun to delay marriage. Women marry five or six years later than was common just a decade ago.

- Much of Northern Africa -- where unemployment now runs at 50 percent -- is following this same trend of later marriage and falling fertility. Rwanda shows how delayed marriage as well as adoption of modern contraception can be the mechanism of declining fertility.

- Mexican unemployment rose 40 to 50 percent during the 1980s, while the fertility rate fell from 3.8 to 3.2 children per woman, a significant decline. (On the contrary, Mexican women who immigrate to the United States have four or five children each. Is the differential an effect of perceived opportunity and the ease of immigration into the United States?)

A fertility effect of moving from an overcrowded environment is becoming evident. From the perspective of places which migrants leave, a study of nineteenth century England and Wales showed continuing high fertility in depressed communities which young people were leaving, in contrast to rapidly falling fertility in similar communities where emigration did not relieve population pressure. The same difference was found in Caribbean islands during the 1970s and 80s: Communities where many of the young emigrate have continuing high fertility, whereas fertility has declined rapidly in the natal communities where young remain.

Thus, migration may encourage higher fertility not only among immigrants but also among those left behind, who perceive spaces opening up in their own locality. Examples can be endlessly multiplied. Fertility goes up in response to perceived opportunity. It falls when conditions are indubitably

deteriorating (Abernethy, 1993. Population Politics: The Choices that Shape Our Future (NY: Plenum Press/Insight Books). And western efforts are counter-productive when they get in the way of people's correctly interpreting negative signals from their own, local environment.

# The New York Times

THE NEW YORK TIMES OP-ED FRIDAY, MAY 31, 1991



James Kapura

## Poisoned Meat From Canada

By Elaine Dodge  
and Christy Law

**P**oisoned meat is being imported into the U.S. from Canada as a result of the fast-track procedure under which Congress approved the free trade agreement in 1988. If food provisions in the prospective U.S.-Mexico accord and in pacts with more than 100 countries under the General Agreement on Tariffs and Trade are not carefully drafted, our food safety standards may be further compromised.

In January 1989, the U.S.-Canada pact took effect. That month, the Agriculture Department's Food Safety and Inspection Service introduced "streamlined" procedures for inspecting meat at 17 border stations staffed by about a dozen inspectors.

Months later, the General Accounting Office called William J. Lehman, an inspector in Sweetgrass, Mont., to talk about inspections. When he complained that the procedures effectively eliminated meat inspection, the G.A.O. sent him to us, a whistle-blower support organization.

Mr. Lehman says that in 25 years of inspections, he has never seen more contaminated meat than in the period since the pact took effect. He says he refused entry to 1.9 million pounds of meat in 1989 and 2.5 million pounds last year, finding it unfit for consumption. Through April 1991, he

has rejected 684,600 pounds. He found pus-filled abscesses, sticky layers of bacteria leaving a stench, fecal contamination, ulcers, blood, bruises and metal shavings. Mr. Lehman says three inspectors at various stations (he would not divulge their names) have corroborated his findings.

Consumers apparently contract food poisoning but don't know it, because it takes 4 to 24 hours for symptoms to emerge. During this time, people can eat several meals, making it difficult to trace the source of poisoning. Since symptoms resemble those of the flu, most people do not accurately diagnose their illness.

### U.S. inspections are dangerous to your health.

Before the trade pact took effect, the Agriculture Department stopped every truck carrying meat at the border and selected samples for inspection.

Now, inspectors check only 1 of every 15 trucks crossing the border. The G.A.O. found that some trucks selected for inspection did not stop, but the companies were not effectively punished.

When a slaughterer has a truck of meat ready, it notifies the Agriculture Department, which uses a random-sampling computer program to determine whether the shipment will be inspected and, if so, whether the meat will be given a visual check or laboratory testing or both.

When the computers designate a shipment, the slaughterhouse is notified before the truck leaves. It chooses the samples for inspection; segregated from the rest of the shipment, they are wrapped in plastic and put inside the truck's rear doors. Even with the pre-selection, Mr. Lehman says, he rejects 40 to 80 percent of the meat. If inspectors entered trucks and chose their own samples, they would be subject to reprimand and dismissal.

Once an abattoir is notified that a truck will be checked, it can cancel the shipment and call the Agriculture Department with a "new" shipment, without disclosing that it is the shipment picked earlier for inspection. The odds are 15 to 1 the computer will not pick it again. Even when inspectors have rejected meat, slaughterhouses have been caught reshipping it illegally through other stations.

The Agriculture Department may not learn that a truck didn't stop until long after it has reached its destination and the meat has been sold. The department lets meat from inspected shipments reach U.S. markets two weeks before the results of laboratory examinations are known. At the border, the one-pound samples are mailed to the labs. The samples of the following week, when they are shipped by regular mail, to one of three Federal labs or to contract labs.

The samples are tested for listeria, a potentially deadly bacteria, and antibiotics, poisons, pesticides and cancer-causing hormones. This system allowed 20,000 pounds of beef frankfurters from J. M. Schneider in Ontario into the U.S. last June, before the results confirmed the presence of listeria. No deaths have yet been traced to Canadian meat. Stay tuned. □

Elaine Dodge is a staff attorney and Christy Law is public education coordinator for the Government Accountability Project.

## NATIONAL NEWS

## Bovine TB still a public health concern

**Potentially infected carcasses must be tested further, condemned or cut up and cooked at temperatures high enough to kill any organisms.**

By GEORGE ANTHAN

The Register's Washington Bureau Chief

**Washington, D.C.** — The Agriculture Department in 1980 issued a policy, signed by then-Secretary of Agriculture Clayton K. Yeutter, that allowed beef carcasses found to be infected with tuberculosis to be released as human food.

The USDA now says the policy was based on "certain inaccuracies" and has been clarified. Department officials also believe that only a few carcasses possibly infected with bovine tuberculosis were actually released, and that these were mainly in southern California.

USDA meat inspection officials throughout the country have been told that such cases now must be retained for further testing, condemned or cut up and cooked at temperatures high enough to kill any organisms. There were 27,000 new cases of human TB in the United States in 1991, and more than 89 percent were caused by the human tuber-

culosis bacilli, not by the bovine variety, according to the USDA.

"However, bovine tuberculosis continues to be an issue of public health concern," a department spokesman said.

#### 10 Million Americans

The Centers for Disease Control estimated that 10 million Americans are infected with tuberculosis bacilli but are free of disease. About 25,000 of these persons develop tuberculosis each year, the CDC says, and an additional 20,000 people become newly infected with TB bacilli annually.

USDA documents indicate the policy outlined by Yeutter in a 1980 report was formulated by Washington-based officials of the department's Food Safety and Inspection Service. Donald White, associate FSIS administrator, said Yeutter's policy statement involved "an isolated case" in southern California and was not implemented nationally.

White said that Yeutter's stated policy represented a "misinterpretation" of USDA regulations.

#### Handling Raw Meat

Rodney Leonard, who headed the USDA's food safety agency in the 1960s, said "bovine tuberculosis can be transmitted to humans through handling of the raw meat. You should not be permitting this organism to get into the food supply."

Leonard, who now is with Community Nu-

trition Institute, a public interest group, said there is particular concern over reports of relatively high tuberculosis infections among live cattle imported from Mexico. About 1 million Mexican cattle are processed annually in the southwestern United States.

The USDA says that of the 32 million cattle slaughtered last year in the United States, 613 were found to be infected with TB. But these 613 represented 14.7 percent of the 4,162 animals tested, records show.

#### Cattle From Mexico

Of 536 bovine tuberculosis cases traced by the USDA last year, 80 percent were in cattle imported from Mexico, department records said. Yeutter, who left office in 1980, said he did not recall the TB carcass situation. Secretaries annually sign and release many reports prepared by the agency involved.

Yeutter's successor, Edward Madigan, in a report dated Jan. 19, the day before he left office, said Yeutter's earlier report and one by a USDA personnel officer "contained inaccurate statements." Madigan was responding to a special counsel considering a California case.

Dr. Wilfredo Rosario, a federal veterinarian whose region includes southern California, filed a whistle-blower complaint in 1989 charging that the USDA had implemented a policy of releasing carcasses with tuberculosis symptoms for human food.

Rosario said that late in 1989 he found a carcass that he suspected was infected with TB. "Following standard procedure, I retained the carcass," he said in an affidavit. He said a subsequent preliminary laboratory report suggested a day later classified the carcass as "suggestive" of tuberculosis infection, although TB bacilli had not been found.

Rosario said he moved to retain the carcass, "permitted by a superior to release it and, ironically, Rosario noted, he was given a \$200 cash award by the USDA for finding the carcass."

#### Carcasses Released

Kenneth Morrison of Los Angeles, a lawyer with the California Attorney General's Office, a Washington-based group which assists federal whistle-blowers, said the group was able to document the release of nine TB "suggestive" carcasses in southern California.

Rosario's case also was investigated by the Merit Systems Protection Board, which asked for the report that Yeutter signed in 1980.

Yeutter stated that a laboratory's designation that a carcass was "suggestive" of tuberculosis didn't necessarily mean that TB bacilli actually were present.

His report noted that TB-like lesions can be caused by "many other diseases" and tha-

the carcass involved in Rosario's official complaint was "properly ordered released." Yeutter's report stated that the order to release the carcass didn't violate the law and that "we also found no indication of a substantial and specific danger to public health."

#### "Wastefully Condemned"

Yeutter stated that under any other policy "many carcasses would be improperly and wastefully condemned because they displayed TB-like characteristics."

Yeutter's stated policy was affirmed in 1991 by Gary Schmidt, a USDA personnel officer, who stated in another report that beef carcasses classified as "suggestive" of TB "may be released under the instruction of the USDA." He also noted that the specific carcass involved in Rosario's complaint later was found by the National Animal Disease Laboratory at Ames, Ia., to be free of tuberculosis bacilli.

But Rosario, in a reply to Yeutter's report, stated, "What the secretary failed to mention is that the order to release the carcass was made long before the results of the culture test were available (it takes about eight weeks for such a test)."

In Madigan's Jan. 19 statement, he emphasized that a carcass found to be "suggestive" of TB must not be released for public consumption until after a second bacterial culture test is run.

IMMIGRATION FROM MEXICOECONOMIC GROWTH REDUCES MIGRATION PRESSURE

- o The Commission for the Study of International Migration and Cooperative Economic Development reported to Congress and the President in 1990 that economic growth in the home countries of migrants is the single most important long-term remedy to the problem of unauthorized migration to the United States.
  - Lack of jobs in Mexico and higher paying jobs in the United States will continue to be the greatest inducements for undocumented migration into the United States.
- o By stimulating economic growth in both countries, NAFTA will make it easier for the Mexican economy to absorb new entrants to its labor market.
  - A January 1993 study by the International Trade Commission states that NAFTA will expand the number of jobs in Mexico by as much as 7 percent and will increase average wages by from 0.7 to 16.2 percent.
  - Moreover, studies show that over time a NAFTA would likely decrease the wage disparity between the U.S. and Mexico, further diminishing the incentive for migration from Mexico to the United States.
- o Mexico is implementing a number of programs to ease dislocation caused by NAFTA and other economic reforms, e.g. banking reform to ease credit problems for small farmers and entrepreneurs, infrastructure projects, income adjustment assistance for disadvantaged farmers, and the Solidarity program for social welfare projects at the community level.

THE U.S. AND MEXICO COOPERATE TO CONTROL ILLEGAL IMMIGRATION

- o Cooperation between U.S. and Mexican immigration and law enforcement officials has improved significantly since 1988.
  - U.S. and Mexican officials participate in several joint working groups that deal with issues such as labor and migration, consular issues, and movement of third country nationals through Mexico into the United States.

- o In 1992, Mexico apprehended 123,050 third country nationals, up dramatically from 13,000 in 1988.
  - Because the United States Government did not have to apprehend and detain these illegal immigrants, the increased Mexican effort has saved tens of millions of dollars in detention costs.
  - Such Mexican assistance also contributed to reducing the severity of the phenomenon of "border massing" and to attendant problems of criminality along the border.
- o Mexico has been particularly helpful in working with us to fight alien smuggling of Chinese nationals. As of September 1, 1993, Mexico had repatriated over 800 Chinese nationals at significant cost. It is also prosecuting several suspected alien smugglers.



OFFICE OF THE MAYOR  
THE CITY OF EL PASO, TEXAS

August 9, 1993

LARRY FRANCIS  
MAYOR

Honorable Gary A. Condit  
Chairman, Information, Justice,  
Transportation & Agriculture Subcommittee of  
the Committee on Government Operations  
B-349 C Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Condit:

I want to thank you for the opportunity to testify before the Subcommittee on matters relating to the Border. Hopefully my testimony was of value to your members. The testimony by the other panelists was rather enlightening to me as well.

This past Friday, I met with Mayor Susan Golding of San Diego. It is apparent that Southern California has a different perspective than the Texas border, in that the Texas Cities depend on Mexican retail trade, whereas San Diego does not.

A point that I did not make concerns the twin plant operations across the border. The payroll for these plants comes from the U.S. and is repatriated by the employees coming to the U. S. to shop. A fee will inhibit this repatriation causing more financial harm than good.

Again, more Border Patrol officers will be of help, but funding must come from another source, in my opinion.

Again, thank you for the hospitality.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry Francis", is written over a horizontal line.

Larry Francis  
Mayor, City of El Paso

LF:ged



GOVERNMENTAL AFFAIRS AND EDUCATION COUNCIL

WRITTEN TESTIMONY

DATE: August 23, 1993

TESTIMONY TO: United States Congress  
Committee on Government Operations  
Sub-Committee on Information, Justice Transportation & Agriculture  
Representative Gary A. Condit, Chairman

TESTIMONY BY: Bob Cook  
V.P., Governmental Affairs & Education Council  
Greater El Paso Chamber of Commerce

SUBJECT: Immigration Strategy; Proposed border crossing fee at the land ports of entry and seaports

Thank you for the opportunity to comment on Senator Feinstein's proposal to levy a crossing fee on travelers at the land ports of entry and seaports. We strongly believe that not only INS, but Customs as well, are in great need of additional manpower and resources to more effectively accomplish the tasks before them. In order to accomplish these ends, however, we must adopt public policy that will continue to allow for the creation and preservation of jobs in the United States.

- 1) We believe it is not good public policy to adopt methodologies that will ultimately discourage the legal immigration of Mexicans and other foreign nationals which provide jobs for many Americans who live in El Paso and other communities along the border. In downtown El Paso, retailers estimate that as much as 60% to 90% of sales are attributable to Mexican consumers. In El Paso County as a whole, at least 8,000 retail jobs and close to \$1 billion in sales are directly attributable to Mexican consumers. With so much economic activity at stake, it is therefore important that we pay close attention to issues that negatively impact the Mexican consumer's ability to make purchases in El Paso. The imposition of Senator Feinstein's proposed fee would merely add to the cost of consumer products for Mexican nationals who shop in our country. Mexico has adopted policies recently, such as the \$50 import limit and substantially increasing tolls on their portion of the international bridges--policies which are at least partially designed to keep these consumers from making purchases in the United States and recent trends in El Paso would indicate that these Mexican policies have had a negative impact on retail sales in the community. Therefore, we believe that our own government should not adopt a policy which will effectively serve as a disincentive to these persons to make purchases in our community, and exert a resulting larger negative impact on the revenues of our nation through having to pay for unemployed workers.

- 2) Illegal immigration is a concern for the entire nation, not simply among communities located along the border. It is not equitable therefore to impose a user fee that will be paid mainly by legal immigrants, business and residents of border communities to fund positions for the Border Patrol to interdict illegal immigrants. We firmly believe that Senator Feinstein's proposal represents such an inequitable fee, as the users who pay it will receive little or no direct benefit from the policy.
- 3) Before our nation adopts a practice of either creating or increasing user fees to beef up Border Patrol staff, we should seriously consider all policies that can lead to more efficient management of the ports of entry. For a number of years now, the U.S. General Accounting Office has recommended that only a single agency be charged with the responsibility of port management. We contend that more efficient port management can free up personnel in the federal agencies, particularly with INS and Border Patrol which could place more enforcement officers along the border (not at the primary inspection lanes on bridges) as well as agents who could be more actively involved in employer education regarding the hiring of illegal immigrants.
- 4) Mexican nationals and other immigrants are coming to our country because of economic opportunity. We believe it is critical to support policies, such as the North American Free Trade Agreement which will help advance Mexico's economic well being, and therefore have a long term positive impact on both legal and illegal immigration on the part of Mexican nationals.
- 5) In El Paso, we interact with Mexico on a daily basis. Mexican nationals are our business associates, customers, family and friends. We will not support any policy which has as its net effect, to restrict this vital interaction. We believe that Senator Feinstein's proposal will restrict trade and thus will be counterproductive.

cc: Senator Phil Gramm  
 Senator Kay Bailey Hutchison  
 Congressman Ron Coleman  
 Governor Ann Richards

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Shirley Van Zanten  
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**EXECUTIVE DIRECTOR**  
David A. Bell



## Fourth Corner Economic Development Group

1203 Cornwall Ave., Suite 103  
P.O. Box 2803, Bellingham, WA 98227  
206/676-4255 FAX 206/647-9413

August 6, 1993

**Congress Committee  
on Government Operations  
U.S. House of Representatives  
Washington, D.C.**

Dear Committee Members:

We do not support the proposal to establish a border crossing fee for those entering the United States from Mexico and Canada. While we appreciate Senator Feinstein's concerns, we feel tolls will exacerbate the already difficult delays on our State of Washington's crossings with Western Canada.

For northwest Washington, much of our economic vitality depends on Canadian retail shopping, business investment, and tourism. Adding a border crossing fee and its administrative requirements will certainly add to the long lines already existing, and we believe works against the principles of the Free Trade Agreement. We encourage you to augment the U.S. Customs and Department of Justice's budgets to manage and expedite our cross-border commerce; however, we urge a solution that does not involve tolls.

The Fourth Corner Economic Development Group is Whatcom County's economic development council and is a leadership coalition for economic vitality.

Thank you for this consideration.

Sincerely,

*David Bell*  
David Bell  
Executive Director

cc. Congressman Al Swift, 2nd District



## *CAN / AM MARKETING, INC.*

To the Committee on Government Operations,  
Sub-Committee on Information and Justice  
United States House of Representatives  
Washington D.C.

17 August 1993

Dear Sub-Committee Members;

My name is Neal Ambrose. I am the Business Development Manager for Can/Am Marketing, Inc. a small company, with affiliated organizations serving retailers, duty free outlets, vendors, and business services along both sides of the U.S./Canada border. Our market includes accounts in most of the northern border crossings between Calais, Maine, and our home in Blaine, Washington.

I am writing on behalf of our organization(s) and the accounts we serve to express my gravest concern regarding any potential legislation that would propose a "crossing fee" along the U.S./Canada land border.

In my opinion, such legislation has the potential to devastate hundreds of businesses serving the cross-border retail economy, by creating a spirit of ill-will among Canadian tourists and/or shoppers that may take years to repair. Moreover, it is a distinct possibility that such a "border toll" could result in a slowdown - if not an outright boycott - by Canadians coming across to purchase goods and services, or to travel in the United States.

I sincerely believe that such a backlash would be inevitable if such legislation is passed, and would likely result in lost tax revenue that would more than offset any proceeds generated by the fees proposed.

Let me put this into context, for those who have been focusing on NAFTA as the primary instrument of trade and commerce between Canada and the United States;

Even if NAFTA passes, discrepancies will continue to exist between pricing in U.S. and Canadian retail markets, primarily as a result of differences in Canadian Federal and Provincial Excise Taxes, and the Canadian Goods and Services Tax (GST). In other instances - dairy products, for example - pricing discrepancies are the result of agricultural or other policies that will continue after NAFTA has been ratified.

(...../2)



## CAN / AM MARKETING, INC.

To the Committee on Government Operations,  
Sub-Committee on Information and Justice  
Page 2

One result of these discrepancies has been that a cross-border retail economy has evolved, and this economy has become the lifeblood of many small and mid-sized communities along the northern tier.


Examples of U.S. industries, products, and services that benefit directly from this cross border trade include the following;

- Gasoline/Petroleum Products
  - Shoes & Clothing/Apparel
  - Home Furnishings
  - Beer, Wine, & Spirits
  - Dairy Products
  - Tobacco Products
  - Postal/Freight Services
  - Real Estate
  - Food & Lodging Services
  - Business Services
- (i.e., Banking, Accounting,  
Legal Services, etc.)

Ladies and Gentlemen of the Sub-Committee, 1993 has been a very difficult year for distributors and retailers doing business in U.S./Canada border markets. Our convenience store vendors in Washington State, for example, have been subjected to a weakening Canadian exchange rate, a \$2.00 per carton state cigarette tax increase, a Federal Excise Tax increase for gasoline, and a 7.8% state sales tax on business and other services. Our vendors are willing to pay their fair share, to be sure, but the share you are proposing is a disproportionate burden for these companies and communities to bear !

In conclusion, I would like to emphasize our belief that legislation restricting the free flow of pedestrian and automobile traffic between the U.S./Canadian border is bad policy. While these proposals may be well intended, I believe that they overlook the logistics necessary to meet the "stand alone" requirements to collect such a fee - and the backlash among Canadian visitors that may result. I urge you to oppose any U.S./Canada border fee legislation proposed, and appreciate your consideration regarding this issue.

Sincerely,

  
Neal Ambrose  
Manager, Marketing &  
Business Development  
Can/Am Marketing, Inc.  
P.O. Box 2144  
Blaine, WA 98231



AMERICAN IMMIGRATION LAWYERS ASSOCIATION  
WASHINGTON STATE CHAPTER

August 3, 1993

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Jimmy Wu

Mr. Andy Andersen  
c/o Representative Al Swift  
104 West Magnolia  
Bellingham, Washington 98225

Dear Mr. Andersen:

I am writing to you on behalf of the Washington State Chapter of the American Immigration Lawyers Association regarding President Clinton's announcement this week of new expedited exclusion procedures for refugees.

While we understand the need to control our borders and prevent unscrupulous people from making frivolous claims for asylum, we believe this plan goes too far. We agree with the *New York Times* editorial, which calls the plan the "Refugee Panic Act of 1993."

It is important that our government take every step possible to protect legitimate refugees and not accidentally send them back to persecution. We urge you to support efforts to improve the President's proposal, including any attempt to amend the plan to eliminate the so-called "safe country" exception. As you know, that exception allows INS officials to turn away any refugee if he happened to fly through certain democratic countries. America would in effect try to wash its hands of the moral and humanitarian responsibility to determine if the refugee faced persecution for his political or religious beliefs.

We are confident that with your leadership the Administration's plan could be modified to better protect legitimate refugees and discourage smugglers from taking advantage of desperate people.

We look forward to your response.

Sincerely,

Jacqueline A. Wood  
Chair, Congressional Liaison Committee

## MACDONALD HOAGUE &amp; BAYLESS

ATTORNEYS AT LAW

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DANIEL HOYT SMITH  
KATHLEEN WAREHAM

August 3, 1993

Andy Andersen  
c/o Representative Al Swift  
104 West Magnolia  
Bellingham, WA 98225

Dear Mr. Andersen:

I am writing to you regarding the current anti-immigrant mood in the United States, especially concerning refugees and asylees, and the attendant pressure to pass politically expedient, "quick-fix" (but misguided) legislation to cure the problem.

I am a lawyer with 25 years of experience and have for some time practiced exclusively in the field of immigration law. I have watched with sorrow the growing frustration of the American people caused by economic difficulties and the search for a scapegoat. With the help of the press, immigrants have been identified as "the problem" and all immigrants, legal or illegal, with legitimate claims or not, get thrown into the same basket.

The United States must continue to protect legitimate refugees by providing asylum to those with a well-founded fear of persecution, based on religion, race, political opinion or social group.

The major problem with our present asylum system is the length of time it takes to grant potential asylees full, fair hearings on their petitions. This is largely due to INS mismanagement and, to be fair, understaffing. My asylum clients would love to have quicker hearings. They don't disappear from the system but wait patiently for the chance to present their claim and get on with their lives. Every government and private study condemns INS inefficiency, yet when problems caused by that inefficiency arise, the solution never attacks that inefficiency.

The "problem" will not be solved by instant adjudication of asylees' claims without representation or assistance. Would any reasonable person in the asylee's shoes, dealing with another country with a separate language, culture and government want someone to make an instant decision about such an important claim? It is fundamental to our legal system that if people are

MACDONALD, HOAGUE & BAYLESS  
ATTORNEYS AT LAW

Andy Andersen  
August 3, 1993  
Page 2

to be given a hearing at all, it must be a meaningful hearing and not a superficial "snap judgment".

On one hand, America has always provided a safe haven for refugees fleeing persecution -- my wife's family of Russian and Italian Jews provides me an immediate example. On the other hand, America has a history of treating newcomers or outsiders with prejudice: Chinese and Japanese-Americans are just two examples.

I urge you to take the higher road: to recognize the present atmosphere of scapegoating and to make certain that any proposed asylum or refugee legislation protects, with meaningful hearings, the rights of legitimate refugees.

Sincerely,

MacDONALD, HOAGUE & BAYLESS

A handwritten signature in dark ink, appearing to read "Frank Retman", followed by a small dot.

Frank H. Retman

FHR:bhd

# Brown & Cole Stores

Since 1909

August 17, 1993

Honorable Members of the Subcommittee  
on Government Information and Justice  
Committee on Government Operations  
U.S. House of Representatives  
Washington, D.C. 20515

RE: Border Crossing Fee (opposition)

Greetings:

We operate supermarkets in the vicinity of the Canadian border. Like many retailers all across the 49th parallel, many of our customers come from Canada. This cross border shopping is an important part of the economies of a number of U.S. communities. In our area, it is the largest single sector of economic activity.

Back-ups at the border have caused a good deal of job dislocation. When shopping becomes too inconvenient, many of our Canadian patrons will stay away. As this is being written, there is a two-hour wait for law-abiding Canadians wishing to cross into the U.S. at Blaine, Washington to do their regular shopping. They won't put up with that kind of wait for long.

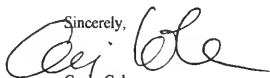
In this part of the country, we cross the border as part of everyday living to shop, recreate, visit relatives, participate in sports or civic events, etc. We expect some inconvenience, but not what we've had to put up with lately. It's hard to understand why the law-abiding people of these two free nations should have their travel so inconvenienced as to effectively impede it.

Unfortunately, the proposed border crossing fee is not the solution. It will slow down "through-put" at each crossing lane (the last thing we need) and create an unnecessary expense to the travelers. Increased inefficiency at the point of collection would "eat-up" any benefit of the additional revenue. And for the budget-conscious cross-border shopper, it could be the final straw.

Those of us who are "cross-border exporters" are having a tough time as it is, with a weak Canadian dollar and a constant effort by Canadian governments at all levels to defeat U.S. retailing. (Lately, the Province of British Columbia even made an official pronouncement that all U.S. poultry is unsafe to eat!) Please don't add to our difficulties by applying the wrong solution to this problem.

Thank you for your consideration.

Sincerely,



Craig Cole  
President

Administrative Offices  
2026 Main Street  
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## ▼ OUR VIEW

## Don't charge \$1 to cross into our nation

**BORDER:** Senate proposal would bring in \$400 million annually, but real cost may exceed benefits.

A border tax is a bad idea.

U.S. Sen. Diane Feinstein, D-Calif., has revived the notion of charging \$1 at all U.S. border crossings. Eleven years ago, Sen. Alan Simpson, R-Wyo., suggested a similar proposal.

Although it would raise money — an estimated \$400 million yearly — the real cost would exceed the benefits.

Border Patrol agents would become money-changers, instead of doing their job as security officers. The focus of attention will be on getting correct change, rather than spotting suspected criminals or illegal immigrants.

The money transaction hassle itself would create even longer lines than we now see, and those lines translate into reduced sales at Whatcom County stores.

And consider the message this sends, that the United States is charging its own citizens, the poor, commuters, our neighbors and everyone else to get into this country.

It would be a public relations disaster. And probably wouldn't add to the bottom line, when all costs are factored in.

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